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**Before the  
Federal Communications Commission  
Washington, DC 20554**

In the Matter of )  
Federal-State Joint Board on Universal Service ) WC Docket No. 09-197  
i-wireless, LLC )  
Petition for Limited Designation as an Eligible )  
Telecommunications Carrier in the States of )  
Alabama, Connecticut, Delaware, Florida, New )  
Hampshire, North Carolina, New York, )  
Tennessee, the Commonwealth of Virginia, )  
and the District of Columbia )

**AMENDED PETITION FOR LIMITED DESIGNATION AS AN ELIGIBLE  
TELECOMMUNICATIONS CARRIER IN THE STATES OF ALABAMA,  
CONNECTICUT, DELAWARE, FLORIDA, NEW HAMPSHIRE, NORTH CAROLINA,  
NEW YORK, TENNESSEE, THE COMMONWEALTH OF VIRGINIA, AND THE  
DISTRICT OF COLUMBIA**

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## SUMMARY

i-wireless, LLC (“i-wireless”) previously filed an application for limited designation as an Eligible Telecommunications Carrier (“ETC”) in the States of Alabama, Connecticut, Delaware, Florida, New Hampshire, North Carolina, New York, Tennessee, the Commonwealth of Virginia, and the District of Columbia (collectively the “Non-Jurisdictional States”) pursuant to Section 214(e)(6) of the Communications Act, solely for purposes of offering services supported by the Universal Service Fund’s (“USF”) Low-Income program. The FCC previously sought comment on that application. This Amended Application updates i-wireless’ prior application in light of the Commission adoption of its *Lifeline and Link Up Reform Order*.<sup>1</sup>

i-wireless is a Mobile Virtual Network Operator (“MVNO”) that purchases wireless service on a wholesale basis from Sprint Nextel. The Each Non-Jurisdictional State has provided an affirmative statement that it does not exercise jurisdiction over wireless providers for purposes of ETC designation. Accordingly, pursuant to Section 214(e)(6), the Commission has the authority to designate i-wireless as an ETC in the Non-Jurisdictional States.

i-wireless meets all of the requirements under Section 214(e)(1) for the limited ETC designation requested herein except for providing service, at least in part, using its own facilities. However, the FCC granted i-wireless’ petition for forbearance from enforcement of this requirement on June 25, 2010 the purposes of participation in the Lifeline program. Through its contracts with underlying carriers, i-wireless has the ability to offer all of the services and functionalities supported by the USF and set forth in Section 54.101(a) of the Commission’s

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<sup>1</sup> *In the Matter of Lifeline and Link Up Reform and Modernization, Lifeline and Link Up, Federal-State Joint Board on Universal Service, Advancing Broadband Availability Through Digital Literacy Training*, WC Docket No. 11-42, WC Docket No. 03-109, CC Docket No. 96-45, WC Docket No. 12-23, Report and Order and Further Notice of Proposed Rulemaking, FCC 12-11 (rel. Feb. 6, 2012) (“*Lifeline and Link Up Reform Order*”).

rules. i-wireless respectfully requests that the Commission promptly approve the instant request for limited ETC designation to enable i-wireless to rapidly provide Lifeline services to qualifying customers in the Non-Jurisdictional States.

Designating i-wireless as an ETC in the Non-Jurisdictional States will promote the public interest by providing qualifying low-income customers in the Non-Jurisdictional States with lower prices and high-quality wireless services. Many low-income customers in the Non-Jurisdictional States have yet to reap the well-documented benefits of wireless service because of financial constraints, poor credit history, or intermittent employment. i-wireless' prepaid service offerings are ideally suited to provide these customers with reliable and cost-effective wireless services. As an ETC, i-wireless will be able to provide discounted and affordable services to these consumers, and will uniquely be able to do so through its affiliation with The Kroger Co. ("Kroger"), the nation's largest grocery retail chain and the second largest retailer overall. i-wireless' designation will specifically serve the public interest because of the aggressive pricing plans that i-wireless will provide (see Exhibit A) and because of i-wireless' unique distribution channels via relationships with retail stores in low-income neighborhoods that will permit customers to obtain service, phones, and refill minutes without traveling outside their neighborhoods or using a computer.

ETC designation for Lifeline service is consistent with precedent and will serve the public interest, and should be granted without delay.

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NEW YORK, TENNESSEE, THE COMMONWEALTH OF VIRGINIA, AND THE  
DISTRICT OF COLUMBIA**

**I. INTRODUCTION**

i-wireless, LLC (“i-wireless” or “the Company”), pursuant to Section 214(e)(6) of the Communications Act of 1934, as amended (“Communications Act”), and Section 54.201 of the rules of the Federal Communications Commission (“FCC” or “Commission”), hereby amends its request for limited designation as an eligible telecommunications carrier (“ETC”) in the States of Alabama, Connecticut, Delaware, Florida, New Hampshire, North Carolina, New York, Tennessee, the Commonwealth of Virginia, and the District of Columbia (collectively the “Non-Jurisdictional States”). For the Commission’s convenience, this Amended Petition replaces, in its entirety, the Petition as originally filed on August 4, 2010 and supplemented on December 6,

2011.<sup>2</sup> i-wireless seeks ETC designation in the Non-Jurisdictional States only for purposes of participation in the Universal Service Fund's ("USF") Lifeline program and does *not* seek to participate in the Link-Up or the High-Cost support programs.

Because the Alabama Public Service Commission, the Connecticut Department of Public Utility Control, the Delaware Public Service Commission, the Florida Public Service Commission, the District of Columbia Public Service Commission, the New Hampshire Public Utilities Commission, the North Carolina Utilities Commission, the New York Public Service Commission, the Tennessee Regulatory Authority and the Virginia State Corporation Commission (collectively, the "State Commissions") lack jurisdiction to designate i-wireless as an ETC, the Commission, under Section 214(e)(6) of the Communications Act, has the authority to consider and grant this request.<sup>3</sup> As more fully described below, i-wireless satisfies the requirements for designation as an ETC in the Non-Jurisdictional States, including the new requirements outlined in the FCC's *USF/ICC Transformation Order*<sup>4</sup> and *Lifeline and Link Up*

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<sup>2</sup> The Wireline Competition Bureau sought comment on i-wireless' petition. *See* Public Notice, Comment Sought on i-wireless, LLC Petition For Designation As An Eligible Telecommunications Carrier in the States of Alabama, Connecticut, Delaware, New Hampshire, North Carolina, New York, Tennessee, the Commonwealth of Virginia, and the District of Columbia, DA 10-1676, 25 FCC Rcd 12669 (rel. Sept. 2, 2010). No party objected to grant of the Petition.

<sup>3</sup> *See* 47 U.S.C. § 214(e)(6).

<sup>4</sup> *In the Matter of Connect America Fund, A National Broadband Plan for Our Future, Establishing Just and Reasonable Rates for Local Exchange Carriers, High-Cost Universal Service Support, Developing a Unified Intercarrier Compensation Regime, Federal-State Joint Board on Universal Service, Lifeline and Link-Up, Universal Service Reform – Mobility Fund*, WC Docket No. 10-90, GN Docket No. 09-51, WC Docket No. 07-135, WC Docket No. 05-337, CC Docket No. 96-45, WC Docket No. 03-109, WT Docket No. 10-208, Report and Order and Further Notice of Proposed Rulemaking, FCC 11-161 (rel. Nov. 18, 2011) ("*USF/ICC Transformation Order*").



*Reform Order*,<sup>5</sup> and will offer all of the services and functionalities supported by the universal service program throughout its designated service areas in the Non-Jurisdictional States. Grant of i-wireless' request, therefore, will promote the public interest by providing customers in the Non-Jurisdictional States with lower prices and higher quality wireless services through innovative distribution channels – particularly as enabled by i-wireless' affiliation with The Kroger Co. ("Kroger"), the nation's largest grocery retail chain and the second largest retailer overall.

## **II. BACKGROUND**

### **A. i-wireless Overview**

i-wireless will provide prepaid wireless telecommunications services to consumers by using the Sprint Nextel ("Sprint") network on a wholesale basis. Sprint is a nationwide carrier that provides wholesale capacity on its wireless network to resellers like i-wireless. Pursuant to an existing agreement, i-wireless will obtain from Sprint the network infrastructure, including wireless transmission facilities, to allow i-wireless to operate as a Mobile Virtual Network Operator ("MVNO"), similar to TracFone and Virgin Mobile, both of whom have been granted ETC status by the Commission.<sup>6</sup> i-wireless will purchase services from Sprint on a wholesale

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<sup>5</sup> Supra note 1.

<sup>6</sup> *Federal-State Joint Board on Universal Service, TracFone Wireless, Inc., Petitions for Designation in the States of Alabama, Connecticut, Delaware, Florida, North Carolina, New Hampshire, New York, North Carolina, Pennsylvania, Tennessee, Virginia, and Washington D.C.*, CC Docket No. 96-45, Order, 23 FCC Rcd 6206 (2008) ("*TracFone ETC Order*"); *Petition of Virgin Mobile USA, L.P. for Forbearance from 47 U.C.S. § 214(e)(1)(A) and 47 C.F.R. § 54.201(i)*, CC Docket No. 96-45, Order, 24 FCC Rcd 3381 (2009) ("*Virgin Mobile Order*"). The Commission had previously granted TracFone forbearance from the facilities requirement for ETC designation, permitting TracFone to offer the supported services via resale only. *Petition of TracFone Wireless, Inc. for Forbearance from 47 U.S.C. § 214(e)(1)(A) and 47 C.F.R. § 54.201(i)*, CC Docket No. 96-45, Order, 20 FCC Rcd 15095 (2005) ("*TracFone Forbearance Order*"). The *Virgin Mobile Order* contained both the forbearance analysis and ETC designation.

basis for mobile calling and text messaging, package those services into i-wireless' own service plans and pricing, and bundle those wireless services with i-wireless' handset selection, mobile applications, marketing materials, web interface, and customer service to produce finished wireless service offerings to sell to end-user customers.

Affordable and easy to use prepaid wireless services are attractive to low-income and lower-volume consumers, providing them with access to emergency services and a reliable means of communication that can be used both at home and while traveling to remain in touch with friends and family and for contacting prospective employers. By providing affordable wireless plans and quality customer service to consumers who are otherwise unable to afford them, or were previously ignored by traditional carriers, i-wireless will expand the availability of wireless services to many more low-income consumers, which is one of the principal objectives of Congress' universal service program as codified in Section 254 of the Communications Act, 47 U.S.C. § 254.

i-wireless will offer consumers simple and affordable prepaid calling plans, a variety of prepaid service plans, easy-to-use handsets and high-quality customer service. Given its pricing and marketing strategy and the demographics of other, similar MVNOs' customers, i-wireless anticipates that many of its customers will be from low-income backgrounds and will not previously have enjoyed access to wireless service because of economic constraints, poor credit history, or sporadic employment. i-wireless does not plan to conduct credit checks or require customers to enter into long-term service contracts as a prerequisite to obtaining wireless service, and does not do so today in the areas in which it already offers prepaid wireless services, including Lifeline services. As it does today in areas where it already sells service, i-wireless plans to allow customers to choose a prepaid plan in which they are charged only for the minutes they use.

## **B. Lifeline Program**

Universal service has been a fundamental component of U.S. telecommunications policy since adoption of the Communications Act over 70 years ago. Section 254 of the Communications Act codified that commitment in 1996, and embodies the Commission's historical commitment to the concept of universal service, including for low-income consumers. Section 254(b) sets forth the principles upon which the Commission shall base its policies for the promotion and advancement of universal service. These principles require the Commission to ensure that all consumers, including low-income consumers, have access to telecommunications services at affordable and reasonably comparable rates.<sup>7</sup> As part of those universal service support programs, Lifeline support helps defray the monthly costs of telecommunications services for low-income consumers by providing them with discounts off the monthly cost of telephone service, with additional discounts available for individuals living on tribal lands.<sup>8</sup>

While generally praising the Low-Income program's success, the Commission has noted that "there is more that we can do to make telephone service affordable for more low-income households," and has specifically targeted telephone subscription among low income consumers as one area for improvement.<sup>9</sup> To increase awareness of the program, the Commission has expanded the qualifying criteria and adopted broader outreach guidelines, requiring carriers to better

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<sup>7</sup> See 47 U.S.C. § 254. Section 254(b)(3) of the Act requires the Commission to determine whether "consumers in all regions of the Nation, *including low-income consumers* and those in rural, insular, and high cost areas...have access to telecommunications [services] ..." 47 U.S.C. § 254(b)(3) (emphasis added).

<sup>8</sup> 47 C.F.R. §§ 54.400 and 54.401.

<sup>9</sup> See *Lifeline and Link Up Reform Order* at ¶¶ 27-30; See also *Lifeline and Link-Up*, WC Docket No. 03-109, Report and Order and Further Notice of Proposed Rulemaking, 19 FCC Rcd 8302, 8305 ¶ 1 (2004) ("Lifeline Order").

advertise the availability of Lifeline services. Through these actions, the Commission has sought to increase Lifeline participation because “when consumers are able to only intermittently remain on the network, they are not fully connected to society and the economy...the Commission has found that the low-income program ‘provide[s] the best source of assistance for individuals to obtain and retain universal service, and, therefore, help maintain and improve telephone subscribership’ and fulfill our obligations under Section 254 of the Communications Act.”<sup>10</sup>

### **C. Proposed Lifeline Offering**

i-wireless intends to be a leader in the prepaid marketplace by offering consumers exceptional value and competitive amounts of voice usage at all price points. The Company’s Lifeline service offering will provide customers with the same features and functionalities enjoyed by all other i-wireless prepaid customers, with one notable exception: prepaid Lifeline services will not require payment of an out-of-pocket fee by subscribers, but instead, i-wireless will receive support from the Lifeline program as compensation for providing those services. i-wireless will provide Lifeline service under the brand name “Access Wireless.” Attached hereto as Exhibit A is a table of i-wireless’ rate plans, showing that i-wireless’ Lifeline service offering proposes to give eligible customers three (3) Lifeline Plan choices:

1. 150 Anytime Minutes Plan. Eligible customers enjoy a free handset, 150 anytime minutes, rollover minutes, free incoming text messages, free customer care calls and participation in the Kroger loyalty Free Minute program, whereby they can earn free minutes simply by grocery shopping.

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<sup>10</sup> See *Lifeline and Link Up Reform Order* at ¶ 16.

2. 250 Anytime Minutes Plan. Eligible customers receive a free handset and 250 anytime minutes. Customers will not qualify for the perks listed above, forgoing these for the higher level of minutes.
3. Retail Discount Plan. The third option allows Lifeline eligible customers to apply the Lifeline subsidy, currently set by the Commission at \$9.25, to any i-wireless monthly retail plan.<sup>11</sup> Additionally, i-wireless currently applies a service credit, which is not subsidized, to bring the Lifeline customers' total discount to \$15.00. Under this Retail Discount Plan, a customer will receive all of the perks listed under the 150 minute plan.

Customers can change their plan on their monthly plan date, without penalty, should they determine that another plan better meets their needs or if their needs change. Where it offers service today, i-wireless does not impose burdensome credit checks or long-term service contracts, and does not currently have plans to do so in the Non-Jurisdictional States. Furthermore, i-wireless does not assess charges for activation or connection of service, and the 150 and 250 minute plans include all applicable taxes and fees. Minutes are credited to a customer's account on their monthly anniversary date - which is set on their Lifeline activation date. A customer's handset does not have to be "on" to receive minutes, as i-wireless' operations are system-based, not handset-based. Customers may place calls to 911 for free, regardless of account balance or activation status.

In addition to wholly-supported voice services, prepaid Lifeline customers also will have access to voice mail, caller I.D. and call waiting services at no additional charge, even after their

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<sup>11</sup> Except a Text Only Plan.

initial allotment of included minutes has been consumed. Customers are not bound by a local calling area requirement; all i-wireless plans come with domestic long distance at no extra charge and exceptional nationwide digital coverage on the Nationwide Sprint PCS Network. Unlike many carriers, i-wireless does not decrement minutes for incoming text messages, balance inquiries, or calls placed to customer service, and unused minutes carry over to the following month.<sup>12</sup> i-wireless' Lifeline customers will have access to the same exceptional customer care provided to non-Lifeline retail customers. The Company contracts with a high quality, U.S. domestic customer care group whose hold time is among the lowest in the prepaid wireless industry.

Furthermore, through i-wireless' partnership with Kroger, customers can accumulate free minutes for dollars spent at participating Kroger-owned store locations simply by using their Kroger loyalty shopper's card.<sup>13</sup> Lifeline customers can participate in this Free Minutes program even when utilizing government-subsidized forms of payment. By way of example, households can receive up to a \$668 monthly Supplemental Nutrition Assistance Program (SNAP; formerly known as "food stamps") allotment. When taking the Company's feature-rich 150 Minute plan as an example, these customers would qualify for an additional 134 free minutes, on average, per month, assuming they used their entire allotment. Added to their base plan, this would give them, on average, 284 minutes per month, along with all of the perks (rollover minutes, free incoming texts and world class customer care). Lifeline customers also can purchase additional

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<sup>12</sup> These "perks" are not available on the 250-minute plan, as outlined in Exhibit A.

<sup>13</sup> The Kroger Co. has a 50% ownership interest in i-wireless. For every \$100 in qualified spending, 20 minutes will automatically be applied to a customer's account balance, or a \$1 credit will be applied to the account balance if the customer is on an unlimited voice plan. Detailed information on the Free Minutes program is located on the Company's website, [www.iwirelesshome.com](http://www.iwirelesshome.com).

airtime if needed. Airtime cards are sold in denominations of \$10, \$25 and \$50. Additional airtime may be purchased at Kroger stores, over the phone (by calling the IVR or through customer care interface) or online. i-wireless sends low and depleted balance alerts in the form of a free text message to the customer, and also alerts the customer through a free text message when minutes have been added to their account.

### **III. THE COMMISSION HAS AUTHORITY TO PERFORM THE ETC DESIGNATION**

Pursuant to Section 214(e)(6), the Commission may designate as an ETC “a common carrier providing telephone exchange service and exchange access that is not subject to the jurisdiction of a state commission.”<sup>14</sup> The Commission has established that a carrier must demonstrate that it “is not subject to the jurisdiction of a state commission” before it may consider an application for ETC designation.<sup>15</sup> The Commission also has stated that any carrier seeking ETC designation from it must provide the Commission with an “affirmative statement” from the state PUC that it lacks jurisdiction to perform the ETC designation.”<sup>16</sup>

None of the states for which i-wireless requests ETC designation from the FCC has the jurisdiction to designate i-wireless as an ETC:

a) The Alabama Public Service Commission has concluded that it “has no jurisdiction to take action” on ETC petitions, and that “wireless providers seeking ETC status should pursue

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<sup>14</sup> See 47 U.S.C. § 214(e)(6).

<sup>15</sup> See *Procedures for FCC Designation of Eligible Telecommunications Carriers Pursuant to Section 214(e)(6) of the Communications Act*, CC Docket No. 96-45, Public Notice, 12 FCC Rcd 22947, 22948 (1997).

<sup>16</sup> See *Federal-State Joint Board on Universal Service; Promoting Deployment and Subscribership in Unserved and Underserved Areas, Including Tribal and Insular Areas*, CC Docket No. 96-45, Twelfth Report and Order, Memorandum Opinion and Order, and Further Notice of Proposed Rulemaking, 15 FCC Rcd 12208, 12264 ¶ 113 (2000).

their ETC designation request with the FCC.” A copy of the Alabama Public Service Commission’s order is attached as Exhibit B.

b) The Connecticut Department of Public Utility Control has provided a letter clarifying that it lacks jurisdiction to entertain i-wireless’ ETC petition. The letter is attached as Exhibit C.

c) The Delaware Public Service Commission has provided a letter clarifying that it lacks jurisdiction to entertain i-wireless’ ETC petition. The letter is attached as Exhibit D.

d) The District of Columbia Public Service Commission has provided a letter clarifying that it lacks jurisdiction to entertain i-wireless’ ETC petition. The letter is attached as Exhibit E.

e) The Florida Public Service Commission has provided a letter clarifying that it lacks jurisdiction to entertain the Company’s ETC petition. The letter is attached as Exhibit F.

f) The New Hampshire Public Utilities Commission has provided a letter clarifying that it lacks jurisdiction to entertain i-wireless’ ETC petition. The letter is attached as Exhibit G

g) The New York Public Service Commission has provided a letter clarifying that it lacks jurisdiction to entertain i-wireless’ ETC petition. The letter is attached as Exhibit H.

h) The North Carolina Utilities Commission has concluded that “the Commission lacks jurisdiction over CMRS services and the appropriate venue for the designation of ETC status for such services is with the FCC.” A copy of the North Carolina Utilities Commission’s Order is attached as Exhibit I.

i) The Tennessee Regulatory Authority has concluded that its statutory “lack of jurisdiction over CMRS providers” precludes it from processing ETC petitions. A copy of the Tennessee Regulatory Authority’s order is attached as Exhibit J.



j) The Virginia Corporation Commission has concluded that “§ 214(e)(6) of the Communications Act is applicable” to wireless ETC petitions “because [the Virginia Commission] has not asserted jurisdiction over CMRS carriers,” and that wireless ETC applicants “should apply to the Federal Communications Commission.” A copy of the Virginia Commission’s Order is attached as Exhibit K.

Accordingly, for each of the Non-Jurisdiction States, i-wireless is “a common carrier providing telephone exchange service and exchange access that is not subject to the jurisdiction of a State commission.”<sup>17</sup> As such, the Commission is authorized to designate i-wireless as an Eligible Telecommunications Carrier.

#### **IV. I-WIRELESS REQUESTS ETC DESIGNATION IN ITS SERVICE AREAS IN THE NON-JURISDICTIONAL STATES FOR PARTICIPATION IN THE LIFELINE PROGRAM**

##### **A. i-wireless Requests ETC Designation in its Existing Service Area**

Consistent with prior orders granting other MVNOs ETC status,<sup>18</sup> i-wireless requests ETC designation for its entire service area in Alabama, Connecticut, Delaware, District of Columbia, Florida, New Hampshire, North Carolina, New York, Tennessee and Virginia (i.e., the area served by the facilities-based carriers from whom it obtains wholesale service),<sup>19</sup> but excluding any Tribal Areas. i-wireless understands that its service area overlaps with several rural carriers’ service areas but maintains that the public interest factors described below justify its designation in

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<sup>17</sup> 47 U.S.C. § 214(e)(6).

<sup>18</sup> See *TracFone ETC Order* and *Virgin Mobile Order*, *supra* note 6.

<sup>19</sup> See Exhibit L for chart reflecting the service areas of the non-rural and rural telephone companies that i-wireless’ authorized service area covers.

these service areas, especially since it only seeks ETC designation for purposes of participation in the Lifeline program. i-wireless does not seek ETC status in any Tribal Areas.

**B. i-wireless' Limited ETC Designation Request Only Seeks Authority to Participate in the Lifeline Program**

Consistent with the scope of forbearance granted by the Commission, i-wireless requests ETC designation in the Non-Jurisdictional States for the sole purpose of participating in the Lifeline program. i-wireless does not seek eligibility to receive support from the Link-Up program or High Cost support program. As demonstrated herein, the instant request to participate in the Lifeline program is consistent with the Commission's requirements for ETC designation, and would promote the goals of universal service by offering the many benefits of supported services to low-income customers in the Non-Jurisdictional States. As discussed above, i-wireless' Lifeline offerings will include many features specifically designed for qualifying low-income customers, who currently lack appealing and affordable options for wireless services, many of whom are therefore unable to subscribe to wireless services.

**C. The Limited Designation Request is Consistent with Recent Precedent**

i-wireless' request for designation to participate in the Lifeline program is consistent with the Commission's recent decisions conditionally designating TracFone Wireless and Virgin Mobile as ETCs in several states.<sup>20</sup> In its decisions, the Commission determined that the requests of TracFone and Virgin Mobile satisfied all of the eligibility requirements and that designation would serve the public interest.<sup>21</sup> The Commission specifically noted in the *TracFone* and *Virgin Mobile Orders* that designation of prepaid wireless providers as ETCs will

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<sup>20</sup> See *supra* note 6.

<sup>21</sup> See *TracFone ETC Order*, 23 FCC Rcd at 6212-13 ¶ 15; *Virgin Mobile Order*, 24 FCC Rcd at 3395 ¶ 38.

provide a variety of benefits to low-income consumers, including increased consumer choice, high-quality service offerings and mobile access to emergency services on wireless devices.<sup>22</sup>

i-wireless requests that the Commission expeditiously process its pending ETC applications so that it can quickly join TracFone and Virgin Mobile in providing qualifying low-income customers with affordable USF-supported Lifeline wireless services. Designation of prepaid wireless providers such as TracFone, Virgin Mobile and i-wireless as ETCs is a significant step towards ensuring that all customers, particularly low-income customers, share in the many benefits associated with access to affordable wireless telecommunications services. During an economic downturn, many existing wireless customers have to forego wireless services because they can no longer afford them. Designation of ETC status to prepaid wireless carriers like TracFone, Virgin Mobile and i-wireless helps to close the widening gap for wireless services and provide low-income customers with the significant advantages associated with access to wireless services. The Commission has found that voice service has “become crucial to full participation in our society and economy, which are increasingly dependent upon the rapid exchange of information.”<sup>23</sup> As noted in a study sponsored by the Massachusetts Institute of Technology’s Legatum Center for Development and Entrepreneurship and New Millennium Research Council, low-income customers receive significant economic and social benefits from wireless services, including enhanced productivity, increased economic opportunity, and broader access to emergency and safety services.<sup>24</sup>

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<sup>22</sup> *See Id.*

<sup>23</sup> *See Lifeline and Link Up Reform Order* at ¶ 12.

<sup>24</sup> Nicholas P. Sullivan, New Millennium Research, *Cell Phones Provide Significant Economic Gains for Low-Income American Households: A Review of Literature and Data from Two New* (continued on next page)

## **V. I-WIRELESS SATISFIES THE REQUIREMENTS FOR DESIGNATION AS AN ETC**

Section 214(e)(1) of the Communications Act and Section 54.201(d) of the Commission's rules provide that applicants for ETC designation must be common carriers that will offer all of the services supported by universal service, either using their own facilities or a combination of their own facilities and the resale of another carrier's services, except where the Commission has forbore from the "own facilities" requirement. Applicants also must commit to advertise the availability and rates of such services.<sup>25</sup> As detailed below, i-wireless satisfies each of the above-listed requirements.

### **A. i-wireless is a Common Carrier**

CMRS resellers like i-wireless are common carriers.<sup>26</sup>

### **B. i-wireless Will Provide the Supported Services Consistent With the Commission's Grant of Forbearance from Section 214's Facilities Requirements**

In an Order released June 25, 2010, the FCC granted i-wireless' petition for forbearance for purposes of participating in the Lifeline program.<sup>27</sup> Thus, as described above, in order to

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*Surveys*, (April 2008), available at [http://newmillenniumresearch.org/archive/Sullivan\\_Report\\_032608.pdf](http://newmillenniumresearch.org/archive/Sullivan_Report_032608.pdf).

<sup>25</sup> See 47 U.S.C. § 214(e)(1) and 47 C.F.R. § 54.201(d)(2).

<sup>26</sup> *Implementation of Sections 3(n) and 332 of the Communications Act, Regulatory Treatment of Mobile Services*, GN Docket No. 93-252, Second Report and Order, 9 FCC Rcd 1411, 1425 ¶ 37, 1454-55 ¶ 102 (1994) (wireless resellers are included in the statutory "mobile services" category, and providers of cellular service are common carriers and CMRS providers); 47 U.S.C. § 332(c)(1)(A) ("mobile services" providers are common carriers); see also *PCIA Petition for Forbearance for Broadband PCS*, WT Docket No. 98-100, Memorandum Opinion and Order and Notice of Proposed Rulemaking, 13 FCC Rcd 16857, 16911 ¶ 111 (1998) ("We concluded [in the *Second Report and Order*] that CMRS also includes the following common carrier services: cellular service, ... all mobile telephone services *and resellers of such services*." (emphasis added)).

provide the supported services, i-wireless purchases wireless network services on a wholesale basis from Sprint.

The FCC specifically conditioned its grant of forbearance on i-wireless as follows:

(a) i-wireless providing its Lifeline customers with basic 911 and enhanced 911 (“E911”) access regardless of activation status and availability of prepaid minutes; (b) i-wireless providing its new Lifeline customers with E911-compliant handsets and replacing, at no additional charge to the customer, noncompliant handsets of existing customers who obtain Lifeline-supported service; (c) i-wireless complying with conditions (a) and (b) as of the date it provides Lifeline service; (d) i-wireless obtaining a certification from each Public Service Answering Point (“PSAP”) where i-wireless seeks to provide Lifeline service confirming that i-wireless provides its customers with 911 and E911 access or self-certifying that it does so if certain conditions are met; (e) i-wireless requiring each customer to self-certify at time of service activation and annually thereafter that he or she is the head of household and receives Lifeline-supported service only from i-wireless; (f) i-wireless establishing safeguards to prevent its customers from receiving multiple i-wireless Lifeline subsidies at the same address, and (g) i-wireless dealing directly with the customer to certify and verify the customer’s Lifeline eligibility.

The FCC required i-wireless to submit a plan describing the measures it would take to implement each of these conditions.<sup>28</sup> In accordance with the *i-wireless Forbearance Order*, i-wireless filed its Compliance Plan which the FCC approved on October 21, 2011.<sup>29</sup> A copy of the revised Compliance Plan, as approved, is attached hereto as Exhibit M. i-wireless commits to providing Lifeline service in the Non-Jurisdictional States in accordance with the Compliance Plan, except

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<sup>27</sup> *Petition of i-wireless, LLC, for Forbearance from 47 U.S.C. § 214(e)(1)(A)*, CC Docket No. 96-45, Order, FCC 10-117 (rel. June 25, 2010), (*i-wireless Forbearance Order*).

<sup>28</sup> *See id.* ¶ 16.

<sup>29</sup> *See* i-wireless LLC’s Revised Compliance Plan, CC Docket No. 96-45, WC Docket No. 09-197 (filed Sept. 9, 2011) (“Compliance Plan”); *i-wireless, LLC Petition for Forbearance from 47 USC. §214(e)(1)(A)*, CC Docket No. 96-45, WC Docket No. 09-197, DA 11-1763, 2011 WL 5038791 (rel. Oct. 21, 2011) (“*Compliance Plan Order*”).

as modified herein, and, as required by that plan, in accordance with the *Lifeline and Link Up Reform Order*.

Consistent with paragraph 383 of the *Lifeline and Link Up Reform Order*, i-wireless will no longer follow the PSAP certification process outlined in the Company's forbearance order and Compliance Plan. i-wireless will, however, continue to comply with applicable 911/E911 public safety obligations, including 47 C.F.R. § 20.18(m), the requirement to provide 911-enabled handsets, and any state-imposed requirements.<sup>30</sup>

### **C. i-wireless Offers All of the Required Services and Functionalities**

Through its wholesale arrangements with Sprint, i-wireless is able to provide all of the services and functionalities supported by the universal service program under Section 54.101 of the Commission's rules in the Non-Jurisdictional States. i-wireless will make these services and functionalities available to qualifying consumers with service addresses in Alabama, Connecticut, Delaware, District of Columbia, Florida, New Hampshire, North Carolina, New York, Tennessee and Virginia.

#### **1. Voice Grade Access to the Public Switched Telephone Network**

i-wireless provides voice grade access to the public switched telephone network ("PSTN") through the purchase of wholesale CMRS services from Sprint.

#### **2. Local Usage**

As part of the voice grade access to the PSTN, an ETC must provide minutes of use for local service at no additional charge to end-users. The FCC has not specified a minimum

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<sup>30</sup> See *Lifeline and Link Up Reform Order*, ¶ 375.

amount of local usage that an ETC must offer.<sup>31</sup> i-wireless offers a variety of rate plans that provide its customers that include minutes of use for, among other things, local service. i-wireless' Compliance Plan requires that it offer at least one plan with 250 included minutes, which i-wireless will do.<sup>32</sup>

### **3. Access to Emergency Services**

i-wireless provides nationwide access to 911 and E911 emergency services for all of its customers to the extent the local government in its service area has implemented 911 or E911 systems. i-wireless also complies with the Commission's regulations governing the deployment and availability of enhanced 911 compatible handsets. As stated previously, i-wireless will provide access to emergency services consistent with the requirements set forth in the *i-wireless Forbearance Order* as modified by Paragraph 383 of the *Lifeline and Link Up Reform Order*<sup>33</sup> and 47 C.F.R. § 20.18(m).

### **4. Toll Limitation for Qualifying Low-Income Consumers**

In its *Lifeline and Link Up Reform Order*, the FCC stated that toll limitation would no longer be deemed a supported service.<sup>34</sup> "ETCs are not required to offer toll limitation service to low-income consumers if the Lifeline offering provides a set amount of minutes that do not distinguish between toll and non-toll calls."<sup>35</sup> Nonetheless, i-wireless's offerings inherently allow Lifeline subscribers to control their usage, as its wireless service is offered on a prepaid, or

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<sup>31</sup> See, e.g. *In the Matter of Federal-State Joint Board on Universal Service*, Recommended Decision 15 FCC Rcd 7331 (2002).

<sup>32</sup> Compliance Plan Section V.

<sup>33</sup> See *i-wireless Forbearance Order* ¶ 11.

<sup>34</sup> See *Lifeline and Link Up Reform Order* at ¶ 367.

<sup>35</sup> See *id.* at ¶ 49.

pay-as-you-go, basis. i-wireless' service, moreover, is not offered on a distance-sensitive basis and local and domestic long distance minutes are treated the same. i-wireless will not seek reimbursement for toll limitation service.

#### **D. Advertising of Supported Services**

i-wireless will broadly advertise the availability and rates for the services described above using media of general distribution as required by Section 54.201(d)(2) of the Commission's regulations,<sup>36</sup> and in accordance with the requirements set forth in the *Lifeline and Link Up Reform Order*.<sup>37</sup> The Company will engage in advertising campaigns specifically targeted to reach low-income customers, promoting the availability of cost-effective wireless services to this neglected consumer segment.

i-wireless' partnership with Kroger presents a unique advantage when seeking to increase consumer awareness of the Lifeline program. Kroger has a long-standing relationship with the low-income consumer, and even caters to the consumer through store layout, such as clearly labeling food stamp-eligible items. i-wireless intends to utilize Kroger's existing relationship with Lifeline-eligible consumers in order to inform these consumers of their eligibility for Lifeline support. For example, when a customer pays with a government-subsidized form of payment at Kroger, their printed cash register receipt will automatically generate information informing them of their eligibility for the Lifeline program and how they can obtain more information. i-wireless will also make use of the Kroger in-store radio, printed advertisements, and signage. Printed materials describing i-wireless' Lifeline program will be available at i-wireless in-store kiosks. Given the relationship that exists between i-wireless, Kroger, and low

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<sup>36</sup> See 47 C.F.R. § 54.201.

<sup>37</sup> See *Lifeline and Link Up Reform Order* at Section VII.F.



income consumers, i-wireless expects to be able to inform consumers of the availability of Lifeline service in a manner that will result in significantly higher participation in the Lifeline program by qualified consumers than has been the case in the past.

Though Kroger will be a primary point of contact with consumers and a dynamic source for advertising the Lifeline program, i-wireless will also seek to reach eligible consumers outside of its Kroger footprint. Consumers are not required to visit a Kroger store – they will be made aware of a toll free number and website whereby they can apply for the Company’s Lifeline program. i-wireless intends to advertise its Lifeline service using printed advertisements, billboards and public transit signage. i-wireless will also promote the availability of its Lifeline offerings by distributing brochures at various state and local social service agencies, and intends to partner with nonprofit assistance organizations in order to inform customers of the availability of its Lifeline services.

#### **E. Service Commitment Throughout the Proposed Designated Service Area**

i-wireless will provide service in the Non-Jurisdictional States by reselling service that it obtains from its underlying facilities-based provider. The underlying provider’s network is operational and largely built out. Thus, i-wireless will be able to commence offering its Lifeline service to all locations served by its underlying carrier very soon after receiving approval from the Commission. i-wireless commits to comply with the service requirements applicable to the support that it receives.<sup>38</sup>

#### **F. Five-Year Network Improvement Plan**

As set forth in the *Lifeline and Link Up Reform Order*, a common carrier seeking

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<sup>38</sup> See *Lifeline and Link Up Reform Order* at page 208, revised § 54.202(a)(1)(i).

designation as a Lifeline-only ETC is not required to submit a five-year network improvement plan as part of its application for designation as an ETC.<sup>39</sup>

#### **G. Ability to Remain Functional in Emergency Situations**

In accordance with 47 CFR §54.202(a)(2), i-wireless has the ability to remain functional in emergency situations. As described herein, i-wireless purchases wireless network services on a wholesale basis from Sprint, a large, national carrier that is itself subject to various regulatory requirements to remain functional in emergencies. Through Sprint, i-wireless provides to its customers the same ability to remain functional in emergency situations as currently provided by Sprint to its own customers, including access to a reasonable amount of back-up power to ensure functionality without an external power source, the ability to reroute traffic around damaged facilities, and the capability of managing traffic spikes resulting from emergency situations. Furthermore, i-wireless is subject to its own 911 requirements in 47 C.F.R. 20.18(m), and has committed to specific 911 and E911-related requirements – including with respect to E911 handsets – as part of its previously-approved Compliance Plan.<sup>40</sup>

#### **H. Commitment to Consumer Protection and Service Quality**

Under FCC guidelines, an ETC applicant must demonstrate that it will satisfy applicable consumer protection and service quality standards.<sup>41</sup> The Company commits to satisfying all such applicable state and federal requirements related to consumer protection and service quality standards. i-wireless commits to comply with the Cellular Telecommunications and Internet Association's (CTIA) Consumer Code for Wireless Service.

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<sup>39</sup> See *id.* at ¶ 386.

<sup>40</sup> Compliance Plan at 3-4; *Compliance Plan Order* at \*2 ¶ 3 and n. 12.

<sup>41</sup> See 47 C.F.R. § 54.202(a)(3).

## **I. Financial and Technical Capability**

i-wireless is financially and technically capable of providing Lifeline-supported services.<sup>42</sup> i-wireless is 50% owned by Kroger, the nation's largest grocery retail chain and the second largest retailer overall. i-wireless has been in business for 6 years and already successfully provides wireless services throughout the United States, including Lifeline services in 13 states. i-wireless has not been subject to enforcement action or ETC revocation proceedings in any state. i-wireless is financially able to provide Lifeline-supported services; the Company does not, and does not intend to, offer exclusively Lifeline-supported services—and is therefore not exclusively dependent on universal service support for its revenue. Furthermore, the senior management of i-wireless has great depth in the telecommunications industry and offers extensive telecommunications business technical and managerial expertise to the Company.<sup>43</sup> i-wireless will be providing resold wireless service, and therefore will also rely upon the managerial and technical expertise of its underlying carrier.

## **VI. I-WIRELESS WILL COMPLY WITH THE REQUIREMENTS SET FORTH IN THE LIFELINE AND LINK UP REFORM ORDER**

### **A. Consumer Eligibility and Enrollment**

i-wireless will certify and verify consumer eligibility for Lifeline in accordance with its Compliance Plan and the requirements set forth in the *Lifeline and Link Up Reform Order*. In instances where a state agency or third-party administrator is responsible for the initial determination and annual recertification of consumer eligibility, i-wireless will rely on the state

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<sup>42</sup> See *Lifeline and Link Up Reform Order* at ¶ 387.

<sup>43</sup> See Exhibit N for key management resumes.

identification or database.<sup>44</sup> In instances where i-wireless is responsible for the initial determination and annual recertification of consumer eligibility, the Company will follow the procedures set forth below, and as summarized in the matrix filed attached to its March 12, 2012 *ex parte* letter, which is incorporated by reference herein.

### **1. One-Per-Household**

i-wireless understands that Lifeline is limited to a single subscription per household, and that the Commission has defined household as “any individual or group of individuals who are living together at the same address as one economic unit.”<sup>45</sup> Upon receiving an application for Lifeline support, i-wireless will check the duplicates database, once in place, to determine whether an individual at the applicant’s residential address is currently receiving Lifeline-supported service. As set forth in its Compliance Plan, i-wireless will also search its own internal database of active customers, real-time, pre-sale, to ensure that it does not already provide Lifeline-supported service to someone at that residential address. If i-wireless determines that an individual at the applicant’s address is currently receiving Lifeline-supported service, i-wireless will take an additional step to ensure that the applicant and the current subscriber are part of different households. To enable applicants to make this demonstration, i-wireless will require applicants to complete and submit to the Company USAC’s one-per-household template.<sup>46</sup>

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<sup>44</sup> See *Lifeline and Link Up Reform Order* at ¶ 98.

<sup>45</sup> See *id.* at ¶ 74.

<sup>46</sup> See *id.* at ¶ 78.

On its certification forms, a draft sample of which is attached,<sup>47</sup> i-wireless will obtain a consumer's permanent residential address (which cannot be a P.O. Box or General Delivery address), unless they only have a temporary address, and a billing address for the service, if different (which may include a P.O. Box or General Delivery address).<sup>48</sup> i-wireless will inquire on its certification forms whether or not the applicant's address is a temporary one.<sup>49</sup> If it is, i-wireless will notify the consumer that the Company will contact the consumer every 90 days, by phone or text, to verify that he or she continues to rely on that address, and that if the consumer fails to respond within 30 days of i-wireless' attempt to verify the temporary address, he or she will be de-enrolled from the Lifeline program. Also on its certification forms, i-wireless will explain that if the subscriber moves, they must provide their new address to the Company within 30 days of moving.<sup>50</sup> If the subscriber has moved, i-wireless will update the duplicates database, once in place, with the information within 10 business days of receipt of the information.<sup>51</sup>

As detailed below, i-wireless' certification form will clearly explain the one-per-household requirement and all consumers must certify that they receive Lifeline support for a single subscription per household.

## **2. Initial and Annual Certification**

i-wireless will update its initial and annual certification forms to conform to the list of requirements provided in the *Lifeline and Link Up Reform Order*, Appendix C and in accordance

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<sup>47</sup> See Exhibit O, attached. The draft form remains subject to change, but substantially reflects the content of i-wireless' application.

<sup>48</sup> See *id* at ¶ 85.

<sup>49</sup> See *id* at ¶ 89.

<sup>50</sup> See *id* at ¶ 85.

<sup>51</sup> See *id*.

with C.F.R. § 54.410(d), as amended.<sup>52</sup> i-wireless' Lifeline certification forms, a draft sample of which is attached as Exhibit O, will require each prospective subscriber to provide the following information:

- (i) The subscriber's full name;
- (ii) The subscriber's full residential address;
- (iii) Whether the subscriber's residential address is permanent or temporary;
- (iv) The subscriber's billing address, if different from the subscriber's residential address;
- (v) The subscriber's date of birth;
- (vi) The last four digits of the subscriber's social security number, or the subscriber's Tribal identification number, if the subscriber is a member of a Tribal nation and does not have a social security number;
- (vii) If the subscriber is seeking to qualify for Lifeline under the program-based criteria, as set forth in § 54.409, the name of the qualifying assistance program from which the subscriber, his or her dependents, or his or her household receives benefits; and
- (viii) If the subscriber is seeking to qualify for Lifeline under the income-based criterion, as set forth in § 54.409, the number of individuals in his or her household.

The certification forms will also explain in clear, easily understandable language that:

- (i) Lifeline is a federal benefit;
- (ii) Lifeline service is available for only one line per household;
- (iii) a household is defined, for purposes of the Lifeline program, as any individual or group of individuals who live together at the same address and share income and expenses;
- (iv) households are not permitted to receive benefits from multiple providers;
- (v) that violation of the one-per-household requirement would constitute a violation of the Commission's rules and would result in the consumer's de-enrollment from the program, and potentially, prosecution by the United States government; and
- (vi) a Lifeline subscriber may not transfer his or her service to any other individual, including another eligible low-income consumer.

i-wireless has modified the certifications listed in its Compliance Plan to better address the requirements of the *Lifeline and Link Up Reform Order*. i-wireless requests, notwithstanding the Compliance Plan, that it be allowed to print the certifications in at least 8-point font, to enable it to fit all the required information on one page, as in Exhibit O.

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<sup>52</sup> See *id* at pp. 227-29.

Applicants will also be required to initial a number of disclosure statements intended to ensure that the applicant understands applicable eligibility requirements. Consumers who do not complete the application process in person must return the signed application and support documentation to the Company by mail, fax, email or other electronic transmission. The Company will accept electronic signatures, including Interactive Voice Response (IVR) recordings, that meet the requirements of the Electronic Signatures in Global and National Commerce Act, 15 USC 7001-7006.<sup>53</sup>

The Company will primarily enroll Lifeline applicants in person at Kroger-owned stores. When a prospective customer applies in store, Company personnel will ask to see a government issued ID and will validate the address via a USPS/Melissa Database and simultaneously input the name/address combination into a third party duplicates database (currently CGM, LLC's aggregate database) to confirm that the applicant is not already receiving a Lifeline subsidy from i-wireless or any other CGM client. In cases where an eligibility database exists, store personnel will contact the Company's internal group dedicated to verifying eligibility who will query the database and either approve or deny the applicant. In states where eligibility databases are not available, Company personnel will request to see the applicant's proof of participation in one of the Lifeline eligible programs or proof that their annual household income is at or below 135% of the federal poverty guidelines. i-wireless' Lifeline application contains an "Office Use Only" section, which must be completely filled out and signed by Company personnel in order to record information about the specific documentation reviewed as part of the eligibility verification process. Eligibility documents are returned to the customer after review. Finally, i-wireless personnel will verbally explain the

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<sup>53</sup> See *id* at ¶ 168.

certifications to consumers before they initial the required disclosure statements and sign the application. Once the Lifeline application is complete, it is scanned into the Company's database. Upon successful completion of the certification process, the customer is allowed to choose a service plan and receive their free phone in store. In instances where eligibility databases cannot be accessed in real-time, i-wireless will mail the phone to the customer once verification of eligibility is complete. The customer's account is then activated upon the customer's personal initiation or actual use of the phone.

i-wireless may also enroll customers at community events, in which case the protocol for signing up customers closely resembles the process in store. Company employees, agents or representatives are able to access necessary databases (USPS/Melissa, duplicates database, eligibility databases) to verify eligibility, and, when required, can personally review eligibility based on proof of income or program participation. Company personnel are able to verbally review the required disclosures with applicants and obtain the completed application form in person. Phones are delivered upon successful completion of the certification process, as detailed above.

With respect to those enrolling via the phone, Company personnel are able to verbally explain the Lifeline program and its eligibility requirements, including required information and disclosures, as well as collect and input electronically the application form information and obtain the applicant's signature via IVR. The Company then has the information needed to qualify the applicant by accessing necessary databases (USPS/Melissa, duplicates database, eligibility databases). Upon receipt of copies of the applicant's proof documentation, if applicable, and government-issued ID, i-wireless is able to complete the eligibility verification process, destroy copies of proof documentation, and deliver phones to eligible customers by mail.

When enrolling via the Internet, prospective customers will be able to fill out an application form online and sign electronically. i-wireless will highlight the certifications that



are required, for example, by requiring consumers to acknowledge each certification before moving on to the next field.<sup>54</sup> The Company will qualify the applicant by accessing necessary databases (USPS/Melissa, duplicates database, eligibility databases). Upon receipt of copies of the applicant's proof documentation, if applicable, and government-issued ID, i-wireless is able to complete the eligibility verification process, destroy copies of proof documentation, and deliver phones to eligible customers by mail.

Prior to enrolling a new subscriber, i-wireless will check the eligibility of low-income consumers first by accessing state or federal social services electronic eligibility databases, where available.<sup>55</sup> If a database is used to establish eligibility, i-wireless will not require documentation of the consumer's participation in a qualifying federal program; instead, i-wireless or its representative will note in its records what specific data was relied upon to confirm the consumer's initial eligibility for Lifeline.<sup>56</sup> However, in states where there is no state administrator, the state commission or other state agency is not making eligibility determinations, and there is no automated means for i-wireless to check electronic databases for eligibility, i-wireless will review documentation to determine eligibility for new subscribers until such time as a qualifying eligibility database is available.<sup>57</sup> As agreed to in its Compliance Plan, i-wireless will require acceptable documentation both for income eligibility and for program eligibility. The Company will not retain copies of the documentation but rather will establish policies and procedures to review such documentation and keep accurate records detailing how

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<sup>54</sup> See *Lifeline and Link Up Reform Order* at ¶ 123.

<sup>55</sup> See *id* at ¶ 97.

<sup>56</sup> See *id* at ¶ 98.

<sup>57</sup> See *id* at ¶ 99.

the consumer demonstrated his or her eligibility.<sup>58</sup> i-wireless understands that it may permit agents or representatives to review documentation of consumer program eligibility for Lifeline, and in such cases i-wireless remains liable for ensuring the agent or representative's compliance with the Lifeline program rules.<sup>59</sup>

i-wireless provides employees, agents, and representatives with training designed to give them an understanding of Lifeline program requirements and permit them to review customer documentation and determine whether it is sufficient to establish a customer's eligibility to participate in the Lifeline program under the Commission's rules. No Company employee, agent, or representative may accept a Lifeline application unless he or she has first completed this training program and demonstrated an understanding of the underlying material. Among other things, the Lifeline program training discusses the Company's Lifeline application form (see Exhibit O) on a section-by-section basis. The training explains what sections of the form must be completed by the customer and reviews the form disclosures in detail, to facilitate the ability of Company personnel to explain each item contained therein and answer any customer questions.

### **3. Annual Re-Certification**

In its Compliance Plan, i-wireless committed to annually notify each participating Lifeline consumer prior to their service anniversary date that they must confirm their continued eligibility in accordance with the applicable requirements in order to continue receiving the Company's Lifeline service. i-wireless hereby clarifies its annual recertification procedures so that they align with the requirements set forth in the *Lifeline and Link Up Reform Order*. i-wireless understands that it must re-certify the eligibility of its entire Lifeline subscriber base as of June 1,

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<sup>58</sup> See *id* at ¶ 101.

<sup>59</sup> See *id* at ¶ 110.

2012 by the end of 2012 and report the results to USAC by January 31, 2013, and the Company may elect to perform this re-certification on a rolling basis throughout the year.<sup>60</sup> By December 31, 2012, i-wireless will re-certify the continued eligibility of all of its subscribers by contacting them—either in person, in writing, by phone, by text message, by email, or otherwise through the Internet—to confirm their continued eligibility.<sup>61</sup> The re-certification notice will explain the actions the customer must take to retain Lifeline benefits, when Lifeline benefits may be terminated, and how to contact i-wireless. i-wireless will obtain a signed certification from the subscriber that meets the certification requirements of 47 C.F.R. § 54.410(d), as amended, as detailed in section VI.A.2 above. The Company will provide written notice of impending service termination to subscribers who do not respond to the annual re-certification within 30 days. i-wireless understands that such certifications may be obtained through a written format, an IVR system, or a text message, and will use one or more of such options for its certifications.<sup>62</sup>

Alternatively, where a database containing consumer eligibility data is available, i-wireless (or state agency or third-party, where applicable) will instead query the database by the end of 2012 and maintain a record of what specific data was used to re-certify eligibility and the date of re-certification. If a subscriber's address cannot be verified through the state data, i-wireless will contact the subscriber every year during the annual certification process to obtain a valid address.<sup>63</sup> After 2012, i-wireless will continue to annually certify the continued eligibility of its entire subscriber base, either by accessing a qualifying database, or by electing to have

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<sup>60</sup> *See id* at ¶ 130.

<sup>61</sup> *See id.*

<sup>62</sup> *See id* at ¶ 132.

<sup>63</sup> *See id* at ¶ 131.

USAC administer the self-certification process on the Company's behalf.<sup>64</sup>

i-wireless will certify its compliance with Commission rules on an annual Lifeline eligible telecommunications carrier certification form and when submitting FCC Forms 497 to USAC for reimbursement. As part of i-wireless' submission of re-certification data pursuant to 47 C.F.R. § 54.416, an officer of the Company will certify annually to USAC:

(1) that the Company has procedures in place to review consumers' documentation of income-and program-based eligibility. In instances where the Company confirms consumer eligibility by relying on official program eligibility data, such as a state or federal database, an officer of the Company will attest to what data the Company uses to confirm consumer eligibility in each state, and

(2) that the Company is in compliance with all federal Lifeline certification procedures.<sup>65</sup>

#### **B. Other Reforms to Eliminate Waste, Fraud and Abuse**

As detailed in its Compliance Plan, and as summarized in its confidential Waste, Fraud, and Abuse Prevention Matrix ("WFA Matrix"),<sup>66</sup> incorporated herein by reference, i-wireless has implemented enrollment procedures designed to prevent subsidies for duplicate, ineligible, or inactive subscribers. i-wireless shares the Commission's concern about abuse of the Lifeline program and is thus committed to the safeguards stated herein and in its Compliance Plan and WFA Matrix, with the belief that the procedures it will implement will prevent Company customers from

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<sup>64</sup> See *id* at ¶ 133.

<sup>65</sup> See *id* at ¶ 126-27.

<sup>66</sup> See *Telecommunications Carriers Eligible to Receive Universal Service Support* WC Docket No. 09-197; *Federal-State Joint Board on Universal Service* CC Docket No. 96-45, confidential attachment to i-wireless, LLC's *Ex Parte* filed March 12, 2012.

engaging in such abuse of the program, inadvertently or intentionally.

### **1. National Lifeline Accountability Database**

i-wireless will participate in the National Lifeline Accountability Database, once it is established. As required by the *Lifeline and Link Up Reform Order*, i-wireless will provide to the database subscriber name, address, phone number, the last four digits of Social Security number, date of birth, Lifeline service initiation and de-enrollment date (when applicable), and amount of federal Lifeline support being sought for that subscriber.<sup>67</sup> i-wireless will provide the information listed above for existing subscribers within 60 days of Commission notice that the database is capable of accepting subscriber information.<sup>68</sup>

Furthermore, on its certification form, i-wireless will obtain acknowledgement and consent from each of its subscribers that is written in clear, easily understandable language that the subscriber's name, telephone number, and address will be divulged to USAC (the administrator of the program) and/or its agents for the purpose of verifying that the subscriber does not receive more than one Lifeline benefit.<sup>69</sup>

Within 30 days following Commission notice that the database is capable of accepting queries, i-wireless will query the database to check to see if a prospective subscriber is already receiving service from another ETC at a residential address prior to seeking reimbursement from the Fund.<sup>70</sup>

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<sup>67</sup> See *id* at ¶ 189.

<sup>68</sup> See *id* at ¶ 190.

<sup>69</sup> See *id*, Appendix C.

<sup>70</sup> See *id* at ¶ 203.

## 2. Subscriber Usage

i-wireless will not seek reimbursement from the USF for new subscribers until they have personally activated the service, either by initiation and/or actual use of the service by the subscriber. Furthermore, as set forth in its Compliance Plan, i-wireless will not seek reimbursement from the USF for inactive subscribers who have not used the service for a consecutive 60-day period.<sup>71</sup> i-wireless will notify its subscribers at service initiation via the certification form and via script that is reviewed with every customer about the non-transferability of the phone service, its usage requirements, and the de-enrollment and deactivation that will result following non-usage in any 60-day period of time.<sup>72</sup> An account will be considered active if during any 60-day period the authorized subscriber does at least one of the following: makes a monthly payment; purchases minutes from the Company to add to an existing pre-paid Lifeline account; completes an outbound call; answers an incoming call from anyone other than the Company, its representative, or agent; sends an outbound text message; initiates data usage; or affirmatively responds to a direct contact from the Company confirming that he or she wants to continue.<sup>73</sup> i-wireless utilizes tracking software to notify the customer if the customer has not used their service for more than 30 or 60 consecutive days. Furthermore, a third party contractor validates i-wireless' subsidy data to prevent a subsidy request for customers that are inactive under the Company's non-usage policy.<sup>74</sup> After notification, if the customer fails to use the phone, it is automatically de-enrolled pursuant to the procedures

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<sup>71</sup> *See id* at ¶ 257.

<sup>72</sup> *See id.*

<sup>73</sup> *See id* at ¶ 261.

<sup>74</sup> CGM, LLC is currently i-wireless' third party contractor.

outlined in section VI.C below. i-wireless will continue to comply with applicable public safety, including transmitting 911 calls to the appropriate PSAP even if the Company is no longer providing Lifeline service to a consumer.<sup>75</sup>

### **3. Marketing & Outreach**

i-wireless will implement the measures outlined in its Compliance Plan to help ensure that only eligible consumers enroll in the program and that those consumers are fully informed of the limitations of the program, so as to prevent duplicative or otherwise ineligible service as well as other forms of waste, fraud, and abuse. In addition, i-wireless will explain in clear, easily understood language substantially the following disclosures in all marketing materials related to the supported service: (1) that only eligible consumers may enroll in the program, (2) that the program is limited to one benefit per household, consisting of either wireline or wireless service; and (3) a household is defined, for purposes of the Lifeline program, as any individual or group of individuals who live together at the same address and share income and expenses; and (4) that Lifeline is a government benefit program. i-wireless will prepare printed collateral that will explain the documentation necessary for enrollment, and the details of i-wireless' plans, and will provide such information on its website. Such collateral and website information, as well as its application, will make clear that consumers who willfully make false statements in order to obtain the benefit can be punished by fine or imprisonment or can be barred from the program.<sup>76</sup> For broadcast advertisements and outdoor signs, and any other situation in which inclusion of documentation information and warnings against willful false statements are not practicable, i-

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<sup>75</sup> See *id* at ¶ 262. 911 transmission will actually be performed by i-wireless' underlying facilities-based CMRS provider.

<sup>76</sup> See *id* at ¶ 275.

wireless will include the URL link for the information disclosure page on its website. Additionally, i-wireless will disclose the company name under which it does business, “Access Wireless.”<sup>77</sup>

#### **4. Audits**

If i-wireless draws \$5 million or more in the aggregate on an annual basis from the low-income program, as determined on a holding company basis taking into account all operating companies and affiliates, the Company will hire an independent licensed certified public accounting firm to conduct a biennial audit according to government accounting standards to assess i-wireless’ overall compliance with the program’s requirements.<sup>78</sup> i-wireless will comply with applicable rules regarding the dissemination of audit findings to the Commission, USAC, and relevant state and Tribal governments within 30 days upon issuance.<sup>79</sup>

#### **C. De-Enrollment**

i-wireless will de-enroll consumers from the Company’s Lifeline program in the following instances, according to C.F.R. § 54.405(e):

Ineligibility. Any subscriber who indicates that he or she is receiving more than one Lifeline-supported service per household, or neglects to make the required one-per-household certification on his or her certification form, will be de-enrolled from Lifeline pursuant to the process for resolving duplicative Lifeline subscriptions described in section 54.405(e)(2).<sup>80</sup>

If a customer does not respond to the Company’s annual verification survey within 30 days, or if

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<sup>77</sup> *See id.*

<sup>78</sup> *See id.* at ¶ 291.

<sup>79</sup> *See id.* at ¶ 294.

<sup>80</sup> *See id.* at ¶ 122.



i-wireless has reasonable basis to believe that the subscriber no longer meets the Lifeline-qualifying criteria (including instances where a subscriber informs the Company or the state that he or she is ineligible for Lifeline), i-wireless will provide a written notice of impending service termination to the subscriber and then give the subscriber 30 days after the date of the letter to demonstrate that his or her Lifeline service should not be terminated.<sup>81</sup> Similarly, i-wireless will de-enroll a subscriber if they fail to respond to the Company's attempt to verify a temporary address within 30 days.<sup>82</sup>

Duplicative Support. i-wireless will de-enroll a subscriber within 5 business days if the Company is informed by USAC that the subscriber is receiving Lifeline service from another ETC or that more than one member of a subscriber's household is receiving Lifeline service.

Non-Usage. i-wireless will de-enroll any subscriber that has not used the Company's Lifeline service for 60 consecutive days, as discussed in section VI.B.2 above. i-wireless will provide the subscriber 30 days' notice, using clear, easily understood language, that the subscriber's failure to use the Lifeline service within the 30-day notice period will result in service termination for non-usage; such notice may be initiated after 30-days of non-usage. i-wireless will update the national database, once in place, within one business day of de-enrolling a subscriber for non-use and will submit a non-usage de-enrollment report annually to USAC.<sup>83</sup>

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<sup>81</sup> *See id.* In states that have dispute resolution procedures applicable to Lifeline termination, i-wireless will comply with the state requirements.

<sup>82</sup> *See id.* at ¶ 89.

<sup>83</sup> *See id.* at ¶ 257.

## **D. Additional Rule Amendments**

### **1. Terms and Conditions of Service**

i-wireless has attached as Exhibit P its current Lifeline terms and conditions of service. These terms and conditions are subject to change as needed, and the most current version may be found at [www.accesswireless.com](http://www.accesswireless.com). The terms and conditions of i-wireless' retail plans, as generally available to the public and to which i-wireless' Lifeline customer can apply their Lifeline discount, can be found at [www.iwirelesshome.com](http://www.iwirelesshome.com).

### **2. Reporting Requirements**

i-wireless will report all information required by section 54.422, including as it may heretofore be amended. This includes the names of the Company's holding company, operating companies and affiliates, and any branding ("doing-business-as company" or brand designation), and provide to the Commission and USAC general information regarding the terms and conditions of the Lifeline plans for voice telephony service offered specifically for low income consumers through the program offered during the previous year, including the number of minutes provided, and whether there are additional charges to the consumer for service, including minutes of use and/or toll calls.<sup>84</sup>

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<sup>84</sup> See *id.* at ¶ 296, 390. Section 153 of the Communications Act defines "affiliate" as "a person that (directly or indirectly) owns or controls, is owned or controlled by, or is under common ownership or control with, another person. i-wireless is 50% owned by The Kroger Co. and 50% owned by Genie Global Inc. i-wireless is registered under its Company name, i-wireless, LLC with the Secretary of States in the states where it provides wireless services, with the exception of the states in which the Company name was not available (Connecticut, Florida, Illinois, Kentucky, Maryland, Minnesota, Ohio, Rhode Island and Wisconsin); in those states, the Company is registered with the Secretary of States under the assumed name of K-Wireless, LLC. i-wireless' Lifeline service is provided under the brand name Access Wireless.

### 3. Reimbursement from USAC

In seeking reimbursement for Lifeline, i-wireless will comply with the requirements of CFR § 54.407, as revised by the *Lifeline and Link Up Reform Order*.<sup>85</sup> i-wireless will certify when seeking reimbursement that the Company has obtained a valid certification form for each consumer for whom the Company seeks Lifeline reimbursement,<sup>86</sup> and the Company will seek reimbursement for actual lines served, not projected lines.<sup>87</sup>

### VII. DESIGNATION OF I-WIRELESS AS AN ETC WOULD PROMOTE THE PUBLIC INTEREST

One of the principal goals of the Communications Act, as amended by the Telecommunications Act of 1996, is “to secure lower prices and higher quality services for American telecommunications consumers and encourage the rapid deployment of new telecommunications technologies” to all citizens, regardless of geographic location or income.<sup>88</sup> There is no question that limited designation of i-wireless as an ETC in the Non-Jurisdictional States will promote the public interest by providing low-income consumers in the Non-Jurisdictional States with more affordable and higher quality wireless services. Many low-income consumers have yet to reap the full benefits of the wireless marketplace. Whether because of financial constraints, poor credit or intermittent employment, these consumers often lack access to the benefits that wireless services bring to other consumers.<sup>89</sup> Designating i-wireless as an ETC in the Non-Jurisdictional States will enable it to expand the availability of

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<sup>85</sup> See *id* page 221.

<sup>86</sup> See *id* at ¶ 128.

<sup>87</sup> See *id* at ¶ 302.

<sup>88</sup> Telecommunications Act of 1996, Pub. L. No. 104-104, 110 Stat. 56.

<sup>89</sup> See *supra* note 24.

affordable telecommunications services to qualifying consumers, leading to lower prices and increased choice – particularly because of i-wireless’ affiliation with Kroger.<sup>90</sup>

The instant request for limited ETC designation must be examined in light of the Communications Act’s goal of providing low-income consumers with access to telecommunications services. The primary purpose of universal service is to ensure that consumers—particularly low-income consumers—receive affordable and comparable telecommunications services. Given this context, designating i-wireless as an ETC would significantly benefit low-income consumers eligible for Lifeline services in the Non-Jurisdictional States—the intended beneficiaries of universal service. The Company’s participation in the Lifeline program also undoubtedly would increase opportunities for the company to serve these customers with appealing and affordable service offerings.

**A. Advantages of i-wireless’ Service Offering**

The public interest benefits of the Company’s wireless service include larger local calling areas (as compared to traditional wireline carriers), the convenience and security afforded by mobile telephone service, the opportunity for customers to control cost by receiving a preset amount of monthly airtime at no charge, the ability to purchase additional usage at flexible and affordable amounts in the event that included usage has been exhausted, 911 service and, where available, E911 service in accordance with current FCC requirements. In addition, consumers will have the benefit of receiving additional wireless service as part of the Kroger loyalty program.

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<sup>90</sup> See *TracFone ETC Order*, 23 FCC Rcd at 6212 ¶ 15; *Virgin Mobile Order*, 24 FCC Rcd at 3395 ¶ 38; *Policy and Rules Concerning the Interstate, Interexchange Marketplace, Implementation of Section 254(g) of the Communications Act of 1934*, CC Docket No. 96-61, Second Report and Order, 11 FCC Rcd 20730, 20760 ¶ 52 (1996).

i-wireless' Lifeline customers will receive the same high-quality wireless services and exceptional customer service provided to all Company customers. i-wireless' Lifeline rate plans will not only allow feature-rich mobile connectivity for qualifying subscribers at no cost to the subscriber, but also will bring a variety of rate plans into the reach of Lifeline customers that are comparable in minutes and features to those available to post-paid wireless subscribers – but at low Lifeline rates and without the burden of credit checks, contracts, or activation fees. i-wireless customers are able to choose a prepaid plan in which they are charged only for the minutes they use.

The proposed i-wireless Lifeline offerings compare favorably with those of other competitive ETCs, but also offer the customer a novel variety of useful options. For example, i-wireless' offer of 150 free minutes is competitive with TracFone's Safelink service of 125 or 250 minutes, given i-wireless does not charge customers for customer care calls or incoming text messages and allows minutes to rollover. In addition, customers are offered the flexibility of applying the Lifeline discount towards the i-wireless retail plan of their choice (excluding a text only plan). Finally, i-wireless' affiliation with Kroger awards the consumer exclusive benefits, such as the Free Minutes program, and at the same time grants i-wireless both proximity to and unique insight into the Lifeline-eligible consumer.

Most importantly, i-wireless' Lifeline service will provide low-income residents with the convenience and security offered by wireless services—even if their financial position deteriorates. ETC designation in the Non-Jurisdictional States would enable i-wireless to offer appealing and affordable service offerings to low-income customers to ensure that they are able to afford wireless services on a consistent and uninterrupted basis. Without question, prepaid wireless services have become essential for low-income customers, providing them with value for their money, access to emergency services on wireless devices, and a reliable means of contact for prospective employers,

social service agencies or dependents. Providing i-wireless with the authority necessary to offer discounted Lifeline services to those most in danger of losing wireless service altogether undoubtedly promotes the public interest.

In sum, ETC designation in the Non-Jurisdictional States would enable i-wireless to provide all of the public benefits cited by the Commission in its analysis in the *TracFone* and *Virgin Mobile Orders*. Namely, i-wireless would provide “increased consumer choice, high-quality service offerings, and mobility,”<sup>91</sup> as well as the safety and security of effective 911 and E911 services.<sup>92</sup>

## **B. The Benefits of Competitive Choice**

The benefits to consumers of being able to choose from among a variety of telecommunications service providers have been acknowledged by the FCC for more than three decades.<sup>93</sup> Designation of i-wireless as an ETC will promote competition and innovation, and spur other carriers to target low-income consumers with service offerings tailored to their needs and to improve their existing networks to remain competitive, resulting in improved services to consumers. Designation of i-wireless as an ETC will help assure that quality services are available at “just, reasonable, and affordable rates” as envisioned in the Communications Act.<sup>94</sup> Designation of i-wireless as an ETC would offer Lifeline-eligible consumers an additional choice of providers for accessing telecommunications services, representing a significant step towards ensuring that all low-income consumers share in the many benefits associated with access to

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<sup>91</sup> See *Virgin Mobile Order*, 24 FCC Rcd at 3395 ¶ 38; *TracFone ETC Order*, 23 FCC Rcd at 6212 ¶ 15.

<sup>92</sup> See *Virgin Mobile Order*, 24 FCC Rcd at 3391 ¶ 23.

<sup>93</sup> See, e.g., *Specialized Common Carrier Services*, 29 FCC Rcd 870 (1971).

<sup>94</sup> See 47 U.S.C. § 254(b)(1).

wireless services.

### **C. Impact on the Universal Service Fund**

i-wireless' request for designation as an ETC solely for Lifeline purposes would not unduly burden the USF or otherwise reduce the amount of funding available to other ETCs. i-wireless will only increase the amount of USF Lifeline funding in situations where it obtains Lifeline customers not enrolled in another ETC's Lifeline program. By implementing the safeguards set forth in the *Lifeline and Link Up Reform Order*, i-wireless will minimize the likelihood that its customers are not eligible or are receiving duplicative support either individually or within their household. Significantly, the Company's designation as an ETC will not increase the number of persons eligible for Lifeline support. i-wireless's ability to increase the Lifeline participation rate of qualified low-income individuals will further the goal of Congress to provide all individuals with affordable access to telecommunications service, and thus any incremental increases in Lifeline expenditures are far outweighed by the significant public interest benefits of expanding the availability of affordable wireless services to low-income consumers. As noted in the FCC's *i-wireless Forbearance Order*, "the additional choice and service options of another wireless reseller offering a service for low-income consumers represents a significant benefit for consumers and is in the public interest," and "A new entrant should incent existing wireless reseller ETCs to offer better service and terms to their customers, which provides additional evidence that forbearance [associated with granting i-wireless' *Petition for Forbearance*] in the context of the Lifeline program outweighs the potential costs."<sup>95</sup>

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<sup>95</sup> *i-wireless Forbearance Order*, ¶ 19.

## **VIII. ANTI-DRUG ABUSE CERTIFICATION**

i-wireless certifies that no party to this Petition is subject to denial of federal benefits, including FCC benefits, pursuant to Section 5301 of the Anti-Drug Abuse Act of 1988.

## **IX. CONCLUSION**

As discussed above, designation of i-wireless as an ETC in the Non-Jurisdictional States accords with the requirements of Section 214(e)(6) of the Communications Act and is in the public interest.

For all of the foregoing reasons, i-wireless respectfully requests that the Commission designate i-wireless as an ETC in the Non-Jurisdictional States.

Respectfully submitted,

*/s/ Lance J.M. Steinhart*

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Lance J.M. Steinhart  
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Alpharetta, Georgia 30005  
(770) 232-9200 (Phone)  
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E-Mail: lsteinhart@telecomcounsel.com

*Attorney for i-wireless, LLC*

April 2, 2012



## **Exhibit A**

### **i-wireless, LLC's Lifeline Rates**

#### **Option 1: Lifeline 150 Minutes Plan\***

150 anytime minutes per month

(additional usage priced at 10 cent minutes and 10 cent text messages)

Net cost to Lifeline customer: **\$0**

*\*includes:*

- Free handset
- Free Voicemail, Caller-ID, and call waiting
- Free incoming text messages
- Free calls to Customer Service
- Free calls to 911 emergency services
- Free balance inquiries
- Minutes can be rolled over to following month
- Customer can earn additional free minutes through Kroger Free Minute Loyalty Program

#### **Option 2: Lifeline 250 Minutes Plan\***

250 anytime minutes per month

(additional usage priced at 10 cent minutes and 10 cent text messages)

Net cost to Lifeline customer: **\$0**

*\*includes:*

- Free handset
- Free Voicemail, Caller-ID, and call waiting
- Free calls to 911 emergency services
- Free balance inquiries

*\*\*additional charges apply for:*

- incoming text messages (charge per text: 10 cents; one text message decrements one minute of use)
- calls to Customer Service (minutes decrement from customers 250 minutes)

*\*\*\*additional restrictions:*

- Minutes cannot be rolled over to next month
- Customer not eligible to earn additional minutes through the Kroger Free Minute Loyalty Program

### **Option 3: Lifeline Retail Discount Plan\***

Lifeline eligible customers may choose any i-wireless monthly retail plan (excluding text only plans) at a discount. The following retail monthly plans are currently available:

#### **Talk Plans (monthly)**

- 200 anytime minutes, unlimited text messages, and 200 megabytes of data (web browsing and e-mail on capable phones) (additional usage priced at 10 cent minutes)  
Net cost to Lifeline customer: **\$10** (plus applicable taxes and fees)
- 1,000 minutes, unlimited text messages and 500 megabytes of data (web browsing and e-mail on capable phones) (additional usage priced at 10 cent minutes)  
Net cost to Lifeline customer: **\$25** (plus applicable taxes and fees)
- Unlimited talk (10 cents per text message; data packs sold separately)  
Net cost to Lifeline customer: **\$25** (plus applicable taxes and fees)
- Unlimited talk, unlimited text messages and 2.5 gigabytes of data (web browsing and e-mail on capable phones)  
Net cost to Lifeline customer: **\$45** (plus applicable taxes and fees)

#### ***\*includes:***

- Free handset
- Free Voicemail, Caller-ID and call waiting
- Free incoming text messages
- Free calls to Customer Service
- Free calls to 911 emergency services
- Free balance inquiries
- Minutes can be rolled over to following month
- Customer can earn additional free minutes through Kroger Free Minute Loyalty Program

**Exhibit B**

**Affirmative Statement of the Alabama Public Service Commission**

# Alabama Public Service Commission

## Orders

**PINE BELT CELLULAR, INC. and PINE BELT PCS, INC.,**

**Joint Petitioners**

**PETITION: For ETC status and/or clarification regarding the jurisdiction of the Commission to grant ETC status to wireless carriers.**

**DOCKET U-4400**

### **ORDER**

#### **BY THE COMMISSION:**

In a joint pleading submitted on September 11, 2001, Pine Belt Cellular, Inc. and Pine Belt PCS, Inc. (collectively referred to as "Pine Belt") each notified the Commission of their desire to be designated as universal service eligible telecommunications carriers ("ETCs") for purposes of providing wireless ETC service in certain of the non-rural Alabama wireline service territories of BellSouth Telecommunications, Inc. ("BellSouth") and Verizon South, Inc. ("Verizon"). The Pine Belt companies noted their affiliation with Pine Belt Telephone Company, a provider of wireline telephone service in rural Alabama, but clarified that they exclusively provide cellular telecommunications and personal communications (collectively referred to as "CMRS" or "wireless") services in their respective service areas in Alabama in accordance with licenses granted by the Federal Communications Commission ("FCC"). The pivotal issue raised in the joint pleading of Pine Belt companies is whether the Commission will assert jurisdiction in this matter given the wireless status of the Pine Belt companies.

As noted in the filing of the Pine Belt companies, state Commissions have primary responsibility for the designation of eligible telecommunications carriers in their respective jurisdictions for universal service purposes pursuant to 47 USC §214 (e). The Commission indeed established guidelines and requirements for attaining ETC status in this jurisdiction pursuant to notice issued on October 31, 1997.

For carriers not subject to state jurisdiction, however, §214(e)(6) of the Telecommunications Act of 1996 provides that the FCC shall, upon request, designate such carriers as ETCs in non-rural service territories if said carriers meet the requirements of §214(e)(1). In an FCC Public Notice released December 29, 1997 (FCC 97-419) entitled "Procedures for FCC designation of Eligible Telecommunications Carriers pursuant to §214(e)(6) of the Telecommunications Act", the FCC required each applicant seeking ETC designation from the FCC to provide, among other things, "a certification and brief statement of supporting facts demonstrating that the Petitioner is not subject to the jurisdiction of a state Commission."

The Pine Belt companies enclosed with their joint pleading completed ETC application forms as developed by the Commission. In the event the Commission determines that it does not have jurisdiction to act on the Pine Belt request for ETC status, however, the Pine Belt companies seek an affirmative written statement from the Commission indicating that the Commission lacks jurisdiction to grant them ETC status as wireless carriers.

The issue concerning the APSC's jurisdiction over providers of cellular services, broadband personal communications services, and commercial mobile radio services is one that was rather recently addressed by the Commission. The Commission indeed issued a Declaratory Ruling on March 2, 2000, in Docket 26414 which concluded that as the result of certain amendments to the Code of Alabama, 1975 §40-21-120(2) and (1)(a) effectuated in June of 1999, the APSC has no authority to regulate, *in any respect*, cellular services, broadband personal communications services and commercial mobile radio services in Alabama. Given the aforementioned conclusions by the Commission, it seems rather clear that the Commission has no jurisdiction to take action on the Application of the Pine Belt companies for ETC status in this jurisdiction. The Pine Belt companies and all other wireless providers seeking ETC status should pursue their ETC designation request with the FCC as provided by 47 USC §214(e)(6).

IT IS, THEREFORE, ORDERED BY THE COMMISSION, That the Commission's jurisdiction to grant Eligible Telecommunications Carrier status for universal service purposes does not extend to providers of cellular services, broadband personal communications services, and commercial mobile radio services. Providers of such services seeking Eligible Telecommunications Carrier status should accordingly pursue their requests through the Federal Communications Commission.

IT IS FURTHER ORDERED, That this Order shall be effective as of the date hereof.

DONE at Montgomery, Alabama, this 12<sup>th</sup> day of March, 2002.

ALABAMA PUBLIC SERVICE COMMISSION

Jim Sullivan, President

Jan Cook, Commissioner

George C. Wallace, Jr., Commissioner

ATTEST: A True Copy

Walter L. Thomas, Jr., Secretary

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## **Exhibit C**

### **Affirmative Statement of the Connecticut Department of Public Utility Control**



# STATE OF CONNECTICUT

## DEPARTMENT OF PUBLIC UTILITY CONTROL

August 10, 2010  
In reply, please refer to:  
UR:PAP

Lance J.M. Steinhart, Esquire  
1720 Windward Concourse  
Suite 115  
Atlanta, Georgia 30005

Re: Request for Letter Clarifying Jurisdiction Over Wireless CETC Petitions

Dear Mr. Steinhart:

The Department of Public Utility Control (Department) acknowledges receipt of your July 23, 2010 letter filed on behalf of i-wireless, LLC (i-wireless) seeking clarification as to whether the Department asserts jurisdiction to designate competitive eligible telecommunications carriers (CETC) in Connecticut. According to your letter, i-wireless seeks designation as a CETC in Connecticut and believes that the Department does not assert jurisdiction to designate CETCs in the state and that carriers must apply to the Federal Communications Commission for certification.

The Department has reviewed your request and notes that it has approved requests for CETC status from wireline-based carriers. However, in the instant case, i-wireless is a mobile virtual network operator. The Department does not regulate or license mobile carrier services' rates and charges and therefore, it is not subject to the Department's jurisdiction for the purposes of designating CETC status.

Sincerely,

DEPARTMENT OF PUBLIC UTILITY CONTROL

*K. Santopietro* (ilaw)

Kimberley J. Santopietro  
Executive Secretary

**Exhibit D**

**Affirmative Statement of the Delaware Public Service Commission**





**STATE OF DELAWARE  
PUBLIC SERVICE COMMISSION**

861 SILVER LAKE BOULEVARD  
CANNON BUILDING, SUITE 100  
DOVER, DELAWARE 19904

TELEPHONE: (302) 736-7500  
FAX: (302) 739-4849

August 18, 2010

**VIA E-MAIL**

Lance J.M. Steinhart, P.C.  
1720 Windward Concourse  
Suite 115  
Alpharetta, Georgia 30005

Dear Mr. Steinhart:

I received your letter on behalf of i-wireless, LLC requesting clarification on Delaware's competitive eligible telecommunication carrier process. This is to confirm that Delaware is a "default" State and, therefore, it is the FCC, not Delaware, that determines eligibility to receive the federally-subsidized price reductions. I am attaching the October 11, 2005 order in PSC Docket No. 05-016T that discusses this issue in a Verizon Delaware, Inc. docket.

I will attach these documents to an e-mail so that you will receive them expeditiously. If you would also like a hard copies of the documents by mail let me know by e-mail and I will forward them to you.

Sincerely

Janis L. Dillard  
Acting Executive Director

DOCKET COPY  
DO NOT REMOVE FROM OFFICE  
BEFORE THE PUBLIC SERVICE COMMISSION

OF THE STATE OF DELAWARE

IN THE MATTER OF THE APPLICATION OF )  
VERIZON DELAWARE INC., TO MODIFY THE )  
LIFELINE SERVICE BY ADDING AN INCOME )  
QUALIFIER TO THE ELIGIBILITY CRITERIA )  
(FILED JUNE 17, 2005) )

PSC DOCKET NO. 05-016T

ORDER NO. 6736

This 11<sup>th</sup> day of October, 2005, the Commission determines and Orders the following:

1. In the jargon of the federal Lifeline/Link-Up program, Delaware is a "federal default State." Delaware has never, by either state law or state regulation, ordained, nor funded, a stand-alone program to provide discounts on basic telephone services charges for low-income subscribers. Consequently, it was not until 1997, when the Federal Communications Commission ("FCC") revamped the federal Lifeline/Link-Up program, that Delaware subscribers first became eligible for participation in the federal Lifeline program.<sup>1</sup> And given that in a "federal default State" only federally-raised monies are used to reimburse eligible carriers for the Lifeline and Link-Up discounts, it is the FCC, and not the state commission, that gets to call the tune about who should be eligible to receive these federally-subsidized price reductions.

2. Since 1997, Verizon Delaware Inc. ("VZ-DE") has been designated as an "eligible telecommunications carrier" and has offered

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<sup>1</sup>See PSC Order No. 4684 (Dec. 16, 1997) (summarizing Delaware history and electing to allow "Tier 2" federal support to eligible Delaware subscribers).

federal Lifeline discounts on the federal list of supported services.<sup>2</sup> And even though in "default" States, Lifeline is almost an exclusively federal program, VZ-DE has, since 1997, filed at the State level, tariff provisions setting forth its Lifeline offerings.<sup>3</sup>

3. In 2004, the FCC changed some of the "eligibility" rules describing which subscribers may participate in the federal Lifeline/Link-Up program.<sup>4</sup> In particular, the 2004 amendments added additional programs to the list of "eligible" programs where participation confers federal default Lifeline/Link-Up eligibility.<sup>5</sup> The 2004 amendments also introduced an additional eligibility criteria premised on the subscriber's household income.<sup>6</sup> Eligible telecommunications carriers, such as VZ-DE, were given one year to implement this new, additional income-based eligibility criteria.<sup>7</sup>

4. To implement these changes prescribed by the FCC, VZ-DE initially filed revisions to the Lifeline and Link-Up portions of its

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<sup>2</sup>See PSC Order No. 4680 (Dec. 17, 1997) ("ETC" designation for VZ-DE). See also PSC Dckt. No. 97-023T (initial Lifeline tariff filing by VZ-DE).

<sup>3</sup>From December 2000 through December 2003, VZ-DE offered, under its state tariff, an "expanded" Lifeline program for Delaware. The discounts under such program exceeded the Tiers 1 & 2 levels normally available in a default State. VZ-DE offered this expanded program to fulfill a condition imposed by the FCC in approving the Bell Atlantic-GTE merger. See PSC Order No. 6317 (Dec. 9, 2003) (explaining content and cause of this expanded Lifeline offering). Whether Delaware remained a "default State" during this period when VZ-DE subsidized the deeper discounts is an issue that need now be explored or resolved. This "expanded" program ended in December 2003.

<sup>4</sup>In the Matter of Lifeline and Link-Up, Report and Order and Further NPRM, 19 FCC Rcd. 8302 (FCC 2004) ("Lifeline Order").

<sup>5</sup>47 C.F.R. §§ 54.409(b) (Lifeline eligibility criteria in "default" State); 54.415(b) (Link-Up eligibility criteria in "default" State).

<sup>6</sup>47 C.F.R. §§ 54.409(b), 54.410 (Lifeline); 54.415(b), 54.416 (Link-Up).

<sup>7</sup>47 C.F.R. §§ 54.410(a)(ii), 54.416.

State tariff. These changes incorporated into the State tariff provisions the expanded list of "eligibility-conferring" programs.<sup>8</sup> At the same time, the Commission Staff began discussions with VZ-DE to determine whether, under the applicable federal default rules, it was appropriate for VZ-DE to continue to include in its State tariff Lifeline provisions language that conditioned Lifeline eligibility on the subscriber foregoing the ability to purchase many optional or vertical services.<sup>9</sup> Eventually, VZ-DE revised its State tariff Lifeline provisions to delete the questioned restrictions.<sup>10</sup> Then in June 2005, VZ-DE filed another Tariff revision to reflect its implementation of the household-income criteria for eligibility for Lifeline and Link-Up discounts.<sup>11</sup> Finally, on September 9, 2005, VZ-DE submitted another set of revised tariff sheets reflecting further textual revisions, as originally suggested by Staff. In part, these final changes sought to make the State tariff's description of how VZ-DE would administer its Lifeline/Link-Up program to more closely parallel the governing federal default rules.<sup>12</sup>

---

<sup>8</sup>See PSC Dckt. No. 04-017T (filed July 26, 2004; eff. July 27, 2004).

<sup>9</sup>That restriction - limiting Lifeline subscribers to a small group of designated vertical services - had been a continual part of VZ-DE's state-tariffed Lifeline offerings since 1997. In its Lifeline Order, the FCC expressed its belief that "any restriction on the purchase of vertical services may discourage qualified consumers from enrolling and may serve as a barrier to participation in the [Lifeline] program. Lifeline Order at ¶ 53.

<sup>10</sup>See PSC Dckt. No. 05-008T (filed April 8, 2005; eff. April 16, 2005).

<sup>11</sup>See PSC Dckt. No. 05-016T (filed June 17, 2005; eff. June 22, 2005).

<sup>12</sup>See PSC Dckt. No. 05-016T, amended tariff sheets filed on September 9, 2005 but with effective date of June 22, 2005).

5. The Commission enters this Order not so much to "approve" the various Lifeline filings made by VZ-DE but to recount the course of the filings made since the FCC changed its federal Lifeline/Link-Up program in 2004. Indeed, given that Delaware is a "default" State, VZ-DE's Lifeline/Link-Up offerings are governed more by the federal default rules than by any "approved" State tariff provision. Any State tariff provision that might conflict with a federal default rule would necessarily have to yield. However, the Commission will accept the Lifeline and Link-Up tariff filings lodged by VZ-DE. The Commission believes that VZ-DE's last submission (in September 2005) sets forth a Lifeline and Link-Up offering that is consistent with the federal default rules. However, the filing and acceptance of the State tariff provisions should not be seen as foreclosing any later challenge that VZ-DE's program falls short of the federal directives.

Now, therefore, IT IS ORDERED:

1. That, as explained in the body of this Order, the Commission accepts the tariff filings made by Verizon Delaware Inc., to implement its responsibilities to provide federal Lifeline and Link-Up in this "federal default" jurisdiction. In particular, the Commission now accepts the tariff revision filing made September 9, 2005 pertaining to the following leaves in P.S.C.-Del.-No. 1:

Section 20D, Fourteenth Revised Sheet 1 (Link-Up);

Section 20D, Fifth Revised Sheet 2 (Link-Up); and

Section 20E, Eighth Revised Sheet 2 (Lifeline).

2. That the Commission reserves the jurisdiction and authority to enter such further Orders in this matter as may be deemed necessary or proper.

BY ORDER OF THE COMMISSION:

Christy McRae

Chair

Vice Chair

John S. Corway  
Commissioner

John R. DeLoach  
Commissioner

[Signature]  
Commissioner

ATTEST:

Norma J. Sherwood  
Acting Secretary

**Exhibit E**

**Affirmative Statement of the District of Columbia Public Service Commission**



**Public Service Commission of the District of Columbia**  
**1333 H Street, N.W., 2nd Floor, West Tower**  
**Washington, D.C. 20005**  
**(202) 626-5100**  
**www.dcpssc.org**

July 28, 2010

Mr. Lance J.M. Steinhart  
Counsel for i-wireless, LLC  
Lance J.M. Steinhart, PC  
1720 Windward Concourse, Suite 115  
Alpharetta, GA 30005

Dear Mr. Steinhart:

Thank you for your July 23, 2010 letter stating i-wireless LLC's ("i-wireless") intent to be designated as an eligible telecommunications carrier in the District of Columbia. Please be advised that, pursuant to section 34-2006(b) of the District of Columbia Code, the Public Service Commission of the District of Columbia ("Commission") does not have jurisdiction over wireless carriers. Thus, the Commission has no authority to designate i-wireless as an eligible telecommunications carrier.

Attached please find a copy of the relevant section of the District of Columbia Code for your information. Should you need anything further, please contact me at 202-626-5140 or rbeverly@psc.dc.gov.

Sincerely,

A handwritten signature in black ink, appearing to read "Richard A. Beverly", is written over a horizontal line.

Richard A. Beverly  
General Counsel

Enclosure





D.C. Council Home

Home Search Help ©



## Welcome to the online source for the District of Columbia Official Code

**DC ST § 34-2006**

Formerly cited as DC ST 1981 § 43-1456

DC ST § 34-2006

Formerly cited as DC ST 1981 § 43-1456

District of Columbia Official Code 2001 Edition Currentness

Division V. Local Business Affairs

Title 34. Public Utilities. (Refs &amp; Annos)

Subtitle V. Telecommunications.

Chapter 20. Telecommunications Competition. (Refs &amp; Annos)

**§ 34-2006. Exemptions.**

(a) This chapter shall not apply to cable television services performed pursuant to an existing cable television franchise agreement with the District of Columbia which is in effect on September 9, 1996. To the extent that a cable television company seeks to provide local exchange services within the District of Columbia, such company shall be regulated under the provisions of this chapter for their local exchange services.

(b) Pursuant to the federal Telecommunications Act of 1996, this chapter shall not apply to licensed or unlicensed wireless services authorized by the Federal Communications Commission operating in the District of Columbia.

(c) This chapter shall not:

- (1) Apply to the provision, rates, charges, or terms of service of Voice Over Internet Protocol Service or Internet Protocol-enabled Service;
- (2) Alter the authority of the Commission to enforce the requirements as are otherwise provided for, or allowed by, federal law, including the collection of Telecommunications Relay Service fees and universal service fees;
- (3) Alter the authority of the Office of Cable Television and Telecommunications with respect to the provision of video services in the District of Columbia; or
- (4) Alter the Commission's existing authority over the regulation of circuit-switched local exchange services in the District of Columbia.

**CREDIT(S)**

(Sept. 9, 1996, D.C. Law 11-154, § 7, 43 DCR 3736; June 5, 2008, D.C. Law 17-165, § 3(c), 55 DCR 5171.)

**HISTORICAL AND STATUTORY NOTES****Prior Codifications**

1981 Ed., § 43-1456.

**Effect of Amendments**

D.C. Law 17-165 added subsec. (c).

Legislative History of Laws

For legislative history of D.C. Law 11-154, see Historical and Statutory Notes following § 34-2001.

For Law 17-165, see notes following § 34-403.

References in Text

The federal Telecommunications Act of 1996, referred to in (b), is Pub. L. 104- 104, which is codified throughout Title 47 of the United States Code.

DC CODE § 34-2006

Current through June 16, 2010

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END OF DOCUMENT

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Docs In Sequence

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**Exhibit F**

**Affirmative Statement of the Florida Public Service Commission**

COMMISSIONERS:  
ART GRAHAM, CHAIRMAN  
LISA POLAK EDGAR  
RONALD A. BRISÉ  
EDUARDO E. BALBIS  
JULIE I. BROWN

STATE OF FLORIDA



GENERAL COUNSEL  
S. CURTIS KISER  
(850) 413-6199

## Public Service Commission

June 2, 2011

Mr. Lance J.M. Steinhart, P.C.  
Attorney At Law  
1720 Windward Concourse  
Suite 115  
Alpharetta, GA 30005

**Re: Docket No. 110101-TP – i-wireless, LLC's ETC designation**

Dear Mr. Steinhart:

We received your May 20, 2011 letter requesting a statement that the Florida Public Service Commission's jurisdiction to grant ETC designation to i-wireless, LLC changed with Governor Scott's approval of HB 1231, the telecom reform bill. In your letter, you mentioned that i-wireless, LLC is a commercial mobile radio service provider.

This letter acknowledges that Governor Scott's approval of HB 1231, the telecom reform bill, revises Chapter 364, Florida Statutes, thereby changing the Commission's jurisdiction regarding telecommunications companies. I direct your attention to Chapter 364, Florida Statutes, including the revisions by HB 1231 for the proposition that the Federal Communications Commission, rather than this Commission is the appropriate agency to consider i-wireless, LLC's bid for ETC status.

Sincerely,

Handwritten signature of S. Curtis Kiser.

S. Curtis Kiser  
General Counsel

cc: Beth W. Salak, Director, Division of Regulatory Analysis  
Robert J. Casey, Public Utilities Supervisor, Division of Regulatory Analysis  
Adam J. Teitzman, Attorney Supervisor, Office of the General Counsel  
Ann Cole, Commission Clerk, Office of Commission Clerk

## **Exhibit G**

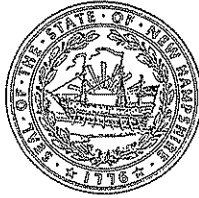
### **Affirmative Statement of the New Hampshire Public Utilities Commission**

THE STATE OF NEW HAMPSHIRE

CHAIRMAN  
Thomas B. Getz

COMMISSIONERS  
Clifton C. Below  
Amy L. Ignatius

EXECUTIVE DIRECTOR  
AND SECRETARY  
Debra A. Howland



**PUBLIC UTILITIES COMMISSION**  
21 S. Fruit Street, Suite 10  
Concord, N.H. 03301-2429

Tel. (603) 271-2431

FAX (603) 271-3878

TDD Access: Relay NH  
1-800-735-2964

Website:  
[www.puc.nh.gov](http://www.puc.nh.gov)

July 28, 2010

Lance J.M. Steinhart, P.C.  
1720 Windward Course  
Suite 115  
Alpharetta, GA 30005

RE: i-wireless, LLC ETC designation

Dear Mr. Steinhart:

This is in response to your letter to the Commission, received on July 27, 2010, concerning the above referenced telecommunications carrier. You requested a statement from the Commission that i-wireless is not subject to the jurisdiction of the Commission, inasmuch as this will affect how i-wireless proceeds with efforts to become designated as an Eligible Telecommunications Carrier (ETC) for purposes of receiving universal service support pursuant to the Telecommunications Act.

Your attention is directed to a published order of the Commission, *RCC Minnesota Inc*, 88 NH PUC 611 (2003 (Order No. 24,245). In that order, the Commission acknowledged that it lacks state-law authority to regulate wireless carriers, *id.* at 615, citing Section 362:6 of the New Hampshire Revised Statutes Annotated, and therefore the Commission concluded that it also lacks jurisdiction to consider a request for ETC designation from the carrier. As a user of cellular spectrum to provide commercial mobile radio service, i-wireless may rely on the *RCC Minnesota* decision for the proposition that the Federal Communications Commission, rather than the New Hampshire Public Utilities Commission, is the appropriate agency to consider i-wireless' bid for ETC status.

Sincerely,

A handwritten signature in dark ink, appearing to read "Debra A. Howland".

Debra A. Howland  
Executive Director

## **Exhibit H**

### **Affirmative Statement of the New York Public Service Commission**

STATE OF NEW YORK DEPARTMENT OF PUBLIC SERVICE  
THREE EMPIRE STATE PLAZA, ALBANY, NY 12223-1350  
[www.dps.state.ny.us](http://www.dps.state.ny.us)

PUBLIC SERVICE COMMISSION

GARRY A. BROWN  
*Chairman*  
PATRICIA L. ACAMPORA  
MAUREEN F. HARRIS  
ROBERT E. CURRY JR.  
JAMES L. LAROCCA  
*Commissioners*



PETER McGOWAN  
*General Counsel*  
JACLYN A. BRILLING  
*Secretary*

July 28, 2010

**VIA EMAIL AND US MAIL**

Lance J.M. Steinhart, Esq.  
1720 Windward Concourse  
Suite 115  
Alpharetta, Georgia 30005

Re: Request for Letter Clarifying Jurisdiction Over Wireless CETC Petitions

Dear Mr. Steinhart:

As you requested, enclosed is a letter providing an affirmative statement, required by the FCC, that the New York State Public Service Commission does not assert jurisdiction over CMRS providers seeking Eligible Telecommunications Carrier designation.

Very truly yours,

*Maureen J. McCauley*  
Maureen J. McCauley  
Assistant Counsel

Enc.

cc: Hon. Jaclyn A. Brillling, Secretary



STATE OF NEW YORK DEPARTMENT OF PUBLIC SERVICE  
THREE EMPIRE STATE PLAZA, ALBANY, NY 12223-1350  
[www.dps.state.ny.us](http://www.dps.state.ny.us)

PUBLIC SERVICE COMMISSION

GARRY A. BROWN  
*Chairman*  
PATRICIA L. ACAMPORA  
MAUREEN F. HARRIS  
ROBERT E. CURRY JR.  
JAMES L. LAROCCA  
*Commissioners*



PETER MCGOWAN  
*General Counsel*

JACLYN A. BRILLING  
*Secretary*

July 28, 2010

TO WHOM IT MAY CONCERN:

Re: i-wireless CMRS Jurisdiction

We have received a letter from i-wireless, LLC (i-wireless), requesting a statement that the New York State Public Service Commission does not exercise jurisdiction over CMRS providers for the purpose of making determinations regarding Eligible Telecommunications Carrier designations under section 214 (e)(6) of 47 U.S.C. In response to this request, please be advised that section 5 (6)(a) of the New York State Public Service Law provides that:

Application of the provisions of this chapter to cellular telephone services is suspended unless the commission, no sooner than one year after the effective date of this subdivision, makes a determination, after notice and hearing, that suspension of the application of provisions of this chapter shall cease to the extent found necessary to protect the public interest.

The New York State Public Service Commission has not made a determination as of this date that regulation should be reinstituted under section 5 (6)(a) of the Public Service Law. Consequently, based on the representation by i-wireless that it is a mobile virtual network operator reselling wireless services, i-wireless would not be subject to New York State Public Service Commission jurisdiction for the purpose of making an Eligible Telecommunications Carrier designation.

Very truly yours,

*Maureen J. McCauley*  
Maureen J. McCauley  
Assistant Counsel

## **Exhibit I**

### **Affirmative Statement of the North Carolina Public Utilities Commission**

**STATE OF NORTH CAROLINA  
UTILITIES COMMISSION  
RALEIGH**

DOCKET NO. P-100, SUB 133c

BEFORE THE NORTH CAROLINA UTILITIES COMMISSION

In the Matter of  
Designation of Carriers Eligible for Universal     )  
Carrier Support   )     ORDER GRANTING PETITION

BY THE COMMISSION: On August 22, 2003, North Carolina RSA3 Cellular Telephone Company, d/b/a Carolina West (Carolina West), a commercial mobile radio service (CMRS) provider, filed a Petition seeking an affirmative declaratory ruling that the Commission lacks jurisdiction to designate CMRS carrier eligible telecommunications carrier (ETC) status for the purposes of receiving federal universal service support.

In support of its Petition, Carolina West stated that it was a CMRS provider authorized by the Federal Communications Commission (FCC) to provide cellular mobile radio telephone service in North Carolina, and that the FCC had clearly recognized that CMRS carriers such as Carolina West may be designated as ETCs. ETC status is necessary for a provider to be eligible to receive universal service support. Section 214(e)(6) of the Telecommunications Act provides that if a state commission determines that it lacks jurisdiction over a class of carriers, the FCC is charged with making the ETC determination. The FCC has stated that, in order for the FCC to consider requests pursuant to this provision, a carrier must provide an "affirmative statement" from the state commission or court of competent jurisdiction that the state lacks jurisdiction to perform the designation. To date, several state commissions have declined to exercise such jurisdiction.

North Carolina has excluded CMRS from the definition of "public utility." See, G.S. 62-3(23)j. Pursuant to this, the Commission issued its Order Concerning Deregulation of Wireless Providers in Docket Nos. P-100, Sub 114 and Sub 124 on August 28, 1995, concluding that the Commission no longer has jurisdiction over cellular services. Accordingly, Carolina West has now requested the Commission to issue an Order stating that it does not have jurisdiction to designate CMRS carriers ETC status for the purposes of receiving federal universal service support.

WHEREUPON, the Commission reaches the following

**CONCLUSIONS**

After careful consideration, the Commission concludes that it should grant Carolina West's Petition and issue an Order stating that it lacks jurisdiction to designate ETC status

for CMRS carriers. As noted above, in its August 28, 1995, Order in Docket Nos. P-100, Sub 114 and Sub 124, the Commission observed that G.S. 62-3(23)j, enacted on July 29, 1995, has removed cellular services, radio common carriers, personal communications services, and other services then or in the future constituting a mobile radio communications service from the Commission's jurisdiction. 47 USC 3(41) defines a "state commission" as a body which "has regulatory jurisdiction with respect to the intrastate operation of carriers." Pursuant to 47 USC 214(e)(6), if a state commission determines that it lacks jurisdiction over a class of carriers, the FCC must determine which carriers in that class may be designated as ETCs. Given these circumstances, it follows that the Commission lacks jurisdiction over CMRS services and the appropriate venue for the designation of ETC status for such services is with the FCC. Accord., Order Granting Petition, ALLTEL Communications, Inc., June 24, 2003.

IT IS, THEREFORE, SO ORDERED.

ISSUED BY ORDER OF THE COMMISSION.

This the 28th day of August, 2003.

NORTH CAROLINA UTILITIES COMMISSION

A handwritten signature in cursive script that reads "Patricia Swenson".

Patricia Swenson, Deputy Clerk

pb082503.01

## **Exhibit J**

### **Affirmative Statement of the Tennessee Regulatory Authority**

BEFORE THE TENNESSEE REGULATORY AUTHORITY

NASHVILLE, TENNESSEE

April 11, 2003

IN RE:

APPLICATION OF ADVANTAGE CELLULAR  
SYSTEMS, INC. TO BE DESIGNATED AS AN  
ELIGIBLE TELECOMMUNICATIONS CARRIER

)  
)  
)  
)  
)

DOCKET NO.  
02-01245

---

ORDER

---

This matter came before Chairman Sara Kyle, Director Deborah Taylor Tate and Director Pat Miller of the Tennessee Regulatory Authority (the "Authority"), the voting panel assigned in this docket, at the regularly scheduled Authority Conference held on January 27, 2003, for consideration of the *Application of Advantage Cellular Systems, Inc. To Be Designated As An Eligible Telecommunications Carrier* ("Application") filed on November 21, 2002.

**Background**

Advantage Cellular Systems, Inc. ("Advantage") is a commercial mobile radio service provider ("CMRS") seeking designation as an Eligible Telecommunications Carrier ("ETC") by the Authority pursuant to 47 U.S.C. §§ 214 and 254. In its *Application*, Advantage asserts that it seeks ETC status for the entire study area of Dekalb Telephone Cooperative, Inc., a rural cooperative telephone company. Advantage maintains that it meets all the necessary requirements for ETC status and therefore is eligible to receive universal service support throughout its service area.

**The January 27, 2003 Authority Conference**

During the regularly scheduled Authority Conference on January 27, 2003, the panel of Directors assigned to this docket deliberated Advantage's *Application*. Of foremost consideration was the issue of the Authority's jurisdiction. The panel unanimously found that the Authority lacked

jurisdiction over Advantage for ETC designation purposes.<sup>1</sup>

This conclusion was implicitly premised on Tenn. Code Ann. § 65-4-104, which provides that:

The Authority has general supervisory and regulatory power, jurisdiction and control over all public utilities and also over their property, property rights, facilities, and franchises, so far as may be necessary for the purpose of carrying out the provisions of this chapter.

For purposes of Tenn. Code Ann. § 65-4-104, the definition of public utilities specifically excludes, with certain exceptions not relevant to this case, “[a]ny individual, partnership, copartnership, association, corporation or joint stock company offering domestic public cellular radio telephone service authorized by the federal communications commission.”

The Authority’s lack of jurisdiction over CMRS providers implicates 47 U.S.C. § 214(e), which addresses the provision of universal service. Where common carriers seeking universal service support are not subject to a state regulatory commission’s jurisdiction, 47 U.S.C. § 214(e)(6) authorizes the Federal Communications Commission (“FCC”) to perform the ETC designation.<sup>2</sup>

---

<sup>1</sup> This finding is not inconsistent with the Authority’s decision in *In re: Universal Service Generic Contested Case*, Docket 97-00888, *Interim Order on Phase I of Universal Service*, pp. 53-57 (May 20, 1998), in which the Authority required intrastate telecommunications carriers to contribute to the intrastate Universal Service Fund including telecommunications carriers not subject to authority of the TRA. The decision in Docket No. 97-00888 was based primarily on 47 U.S.C. § 254(f) which authorizes states to adopt regulations not inconsistent with the Federal Communications Commission’s rules on Universal Service and specifically requires every telecommunications carrier that provides intrastate telecommunications services to contribute to the preservation and advancement of universal service in that state. The *Interim Order* was issued prior to the effective date of 47 U.S.C. § 214(e)(6).

<sup>2</sup> 47 U.S.C. § 214(e)(6) states:

(6) Common carriers not subject to state commission jurisdiction

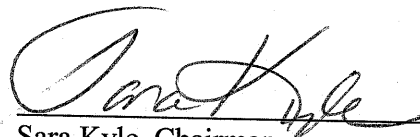
In the case of a common carrier providing telephone exchange service and exchange access that is not subject to the jurisdiction of a State commission, the Commission shall upon request designate such a common carrier that meets the requirements of paragraph (1) as an eligible telecommunications carrier for a service area designated by the Commission consistent with applicable Federal and State law. Upon request and consistent with the public interest, convenience and necessity, the Commission may, with respect to an area served by a rural telephone company, and shall, in the case of all other areas, designate more than one common carrier as an eligible telecommunications carrier for a service area designated under this paragraph, so long as each additional requesting carrier meets the requirements of paragraph (1). Before designating an additional eligible telecommunications carrier for an area served by a rural telephone company, the Commission shall find that the designation is in the public interest.

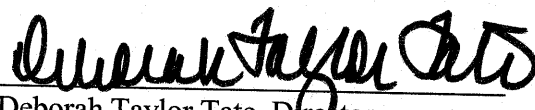
As a matter of "state-federal comity," the FCC requires that carriers seeking ETC designation "first consult with the state commission to give the state commission an opportunity to interpret state law."<sup>3</sup> Most carriers that are not subject to a state regulatory commission's jurisdiction seeking ETC designation must provide the FCC "with an affirmative statement from a court of competent jurisdiction or the state commission that it lacks jurisdiction to perform the designation."<sup>4</sup>

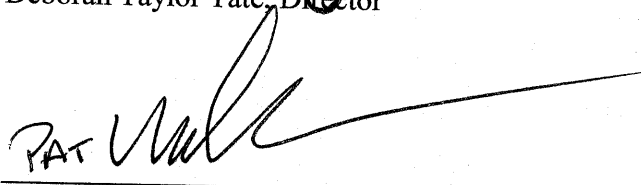
The panel noted that the FCC is the appropriate forum for Advantage to pursue ETC status pursuant to 47 U.S.C. § 214(e)(6). This Order shall serve as the above mentioned affirmative statement required by the FCC.

**IT IS THEREFORE ORDERED THAT:**

*The Application of Advantage Cellular Systems, Inc. To Be Designated As An Eligible Telecommunications Carrier* is dismissed for lack of subject matter jurisdiction.

  
Sara Kyle, Chairman

  
Deborah Taylor Tate, Director

  
Pat Miller, Director

<sup>3</sup> *In the Matter of Federal-State Joint Bd. on Universal Service*, CC Docket No. 96-45, *Twelfth Report and Order, Memorandum Opinion and Order, and Further Notice of Proposed Rulemaking*, 15 F.C.C.R. 12208, 12264, ¶ 113 (June 30, 2000).

<sup>4</sup> *See id.* (The "affirmative statement of the state commission may consist of any duly authorized letter, comment, or state commission order indicating that it lacks jurisdiction to perform designations over a particular carrier.")



**Exhibit K**

**Affirmative Statement of the Virginia Corporation Commission**

## STATE CORPORATION COMMISSION DOCUMENT CONTROL

AT RICHMOND, APRIL 9, 2004

IN RE:

2004 APR -9 A 11:46

APPLICATION OF VIRGINIA CELLULAR LLC

CASE NO. PUC-2001-00263

For designation as an eligible  
telecommunications provider under  
47 U.S.C. § 214(e) (2)

ORDER INVITING COMMENTS AND/OR REQUESTS FOR HEARING

On December 21, 2001, Virginia Cellular LLC ("Virginia Cellular") filed an application with the State Corporation Commission ("Commission") for designation as an eligible telecommunications carrier ("ETC"). This was the first application by a Commercial Mobile Radio Service ("CMRS") carrier for ETC designation.<sup>1</sup> Pursuant to the Order Requesting Comments, Objections, or Requests for Hearing, issued by the Commission on January 24, 2002, the Virginia Telecommunications Industry Association and NTELOS Telephone Inc. ("NTELOS") filed their respective comments and requests for hearing on February 20, 2002. Virginia Cellular filed Reply Comments on March 6, 2002. Our Order of April 9, 2002, found that § 214(e)(6) of the Act is applicable to Virginia Cellular's application because this Commission has not asserted jurisdiction over CMRS carriers and that Virginia Cellular should apply to the Federal Communications Commission ("FCC") for ETC designation.

Virginia Cellular filed its Petition for Designation as an Eligible Telecommunications Carrier in the State of Virginia with the FCC on April 26, 2002. On January 22, 2004, the FCC released its order designating Virginia Cellular as an ETC in specific portions of its licensed

---

<sup>1</sup> Virginia Cellular is a CMRS carrier as defined in 47 U.S.C. § 153(27) and is authorized as the "A-band" cellular carrier for the Virginia 6 Rural Service Area, serving the counties of Rockingham, Augusta, Nelson, and Highland and the cities of Harrisonburg, Staunton, and Waynesboro.

service area in the Commonwealth of Virginia subject to certain conditions ("FCC's January 22, 2004, Order").<sup>2</sup>

The FCC's January 22, 2004, Order further stated that Virginia Cellular's request to redefine the service areas of Shenandoah Telephone Company ("Shentel") and MGW Telephone Company ("MGW") in Virginia pursuant to § 214(3)(5) of the Telecommunications Act of 1996 ("Act") was granted subject to the agreement of this Commission. On March 2, 2004, the FCC filed its January 22, 2004, Order as a petition in this case.<sup>3</sup>

Section 214(e)(5) of the Act states:

SERVICE AREA DEFINED. - The term "service area" means a geographic area established by a State commission (or the Commission under paragraph (6)) for the purpose of determining universal service obligations and support mechanisms. In the case of an area served by a rural telephone company, "service area" means such company's "study area" unless and until the Commission and the States, after taking into account recommendations of a Federal-State Joint Board instituted under section 410(c), establish a different definition of service area for such company.

In this instance, the FCC has determined that the service areas of Shentel and MGW, which are both rural telephone companies under the Act, should be redefined as requested by Virginia Cellular.<sup>4</sup> The FCC further recognizes that the "Virginia Commission's first-hand knowledge of the rural areas in question uniquely qualifies it to determine the redefinition proposal and examine whether it should be approved."<sup>5</sup>

---

<sup>2</sup> CC Docket No. 96-45, *In the Matter of Federal-State Joint Board on Universal Service, Virginia Cellular LLC Petition for Designation as an Eligible Telecommunications Carrier in the Commonwealth of Virginia*.

<sup>3</sup> See paragraph 45 of the FCC's January 22, 2004, Order. The FCC, in accordance with § 54.207(d) of its rules, requests that the Virginia Commission treat this Order as a petition to redefine a service area under § 54.207(d)(1) of the FCC's rules. A copy of the petition can be obtained from the Commission's website at: <http://www.state.va.us/scc/caseinfo.htm>.

<sup>4</sup> The FCC denied Virginia Cellular's request to redefine the study area of NTELOS. See paragraph 50 of the FCC's January 22, 2004, Order.

<sup>5</sup> The FCC's January 24, 2004, Order at paragraph 2. (citations omitted)

The Commission finds that interested parties should be afforded the opportunity to comment and/or request a hearing regarding the FCC's petition to redefine the service areas of Shentel and MGW. We note that the FCC believes that its proposed redefinition of these service areas should not harm either Shentel or MGW.<sup>6</sup> However, we request any interested party to specifically address in its comments whether our agreeing to the FCC's proposal to redefine the service areas of Shentel and MGW would harm these companies.

NOW UPON CONSIDERATION of all the pleadings of record and the applicable law, the Commission is of the opinion that interested parties should be allowed to comment or request a hearing regarding the FCC's proposed redefinition of Shentel's and MGW's service areas.

Accordingly, IT IS ORDERED THAT:

(1) Any interested party desiring to comment regarding the redefinition of Shentel's and MGW's service areas may do so by directing such comments in writing on or before May 7, 2004, to Joel H. Peck, Clerk of the State Corporation Commission, c/o Document Control Center, P.O. Box 2118, Richmond, Virginia 23218. Interested parties desiring to submit comments electronically may do so by following the instructions found on the Commission's website: <http://www.state.va.us/scc/caseinfo.htm>.

(2) On or before May 7, 2004, any interested party wishing to request a hearing regarding the redefinition of Shentel's and MGW's service areas shall file an original and fifteen (15) copies of its request for hearing in writing with the Clerk of the Commission at the address set forth above. Written requests for hearing shall refer to Case No. PUC-2001-00263 and shall include: (i) a precise statement of the interest of the filing party; (ii) a statement of the specific action sought to the extent then known; (iii) a statement of the legal basis for such action; and (iv) a precise statement why a hearing should be conducted in the matter.

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<sup>6</sup> See paragraphs 43 and 44 of the FCC's January 22, 2004, Order.

(3) On or before June 1, 2004, interested parties may file with the Clerk of the Commission an original and fifteen (15) copies of any responses to the comments and requests for hearing filed with the Commission. A copy of the response shall be delivered to any person who filed comments or requests for hearing.

(4) This matter is continued generally.

AN ATTESTED COPY hereof shall be sent by the Clerk of the Commission to: each local exchange telephone company licensed to do business in Virginia, as shown on Attachment A hereto; David A. LaFuria, Esquire, Lukas, Nace, Gutierrez & Sachs, Chartered, 1111 19th Street, N.W., Suite 1200, Washington, D.C. 20036; Thomas Buckley, Attorney-Advisor, Telecommunications Access Policy Division, Wireline Competition Bureau, Federal Communications Commission, 445 12th Street, S.W., Washington, D.C. 20554; Virginia Telecommunications Industry Association, c/o Richard D. Gary, Esquire, Hunton & Williams LLP, Riverfront Plaza, East Tower, 951 East Byrd Street, Richmond, Virginia 23219-4074; L. Ronald Smith, President and General Manager, Shenandoah Telephone Company, P.O. Box 105, Williamsville, Virginia 24487; Lori Warren, Director of Regulatory Affairs, MGW Telephone Company, P.O. Box 459, Edinburg, Virginia 22824-0459; C. Meade Browder, Jr., Senior Assistant Attorney General, Division of Consumer Counsel, Office of Attorney General, 900 East Main Street, 2nd Floor, Richmond, Virginia 23219; and the Commission's Office of General Counsel and Divisions of Communications, Public Utility Accounting, and Economics and Finance.

**Exhibit L**

**Coverage Area**

State	SAC	Study Area Name	Rural (R) or Non- Rural (N)
AL	250282	BLOUNTSVILLE TEL CO	R
AL	250283	BRINDLEE MOUNTAIN	R
AL	250284	BUTLER TEL CO	R
AL	250285	CASTLEBERRY TEL CO	R
AL	250286	NATIONAL OF ALABAMA	R
AL	250290	FARMERS TELECOM COOP	R
AL	250295	GRACEBA TOTAL COMM	R
AL	250298	GULF TEL CO - AL	R
AL	250299	HAYNEVILLE TEL CO	R
AL	250300	HOPPER TELECOMM. CO.	R
AL	250301	FRONTIER-LAMAR CNTY	R
AL	250302	WINDSTREAM AL	R
AL	250304	MILLRY TEL CO	R
AL	250305	MON-CRE TEL COOP	R
AL	250306	FRONTIER COMM.-AL	R
AL	250307	MOUNDVILLE TEL CO	R
AL	250308	NEW HOPE TEL COOP	R
AL	250311	OAKMAN TEL CO (TDS)	R
AL	250312	OTELCO TELEPHONE LLC	R
AL	250314	PEOPLES TEL CO	R
AL	250315	PINE BELT TEL CO	R
AL	250316	RAGLAND TEL CO	R
AL	250317	ROANOKE TEL CO	R
AL	250318	FRONTIER COMM-SOUTH	R
AL	250322	UNION SPRINGS TEL CO	R
AL	255181	SO CENTRAL BELL-AL	N
AL	259788	CENTURYTEL-AL-SOUTH	N
AL	259789	CENTURYTEL-AL-NORTH	N
CT	132454	THE WOODBURY TEL CO	R
CT	135200	SOUTHERN NEW ENGLAND	N
DC	575020	VERIZON WA, DC INC.	N
DE	565010	VERIZON DELAWARE INC	N
NC	230468	ATLANTIC MEMBERSHIP	R
NC	230469	BARNARDSVILLE TEL CO	R
NC	230470	CAROLINA TEL & TEL	R
NC	230471	CENTEL OF NC	R
NC	230473	CITIZENS TEL CO	R
NC	230474	CONCORD TEL CO	R
NC	230476	WINDSTREAM NC	R
NC	230478	ELLERBE TEL CO	R
NC	230479	FRONTIER COMMUNICATIONS OF THE CAROLINAS, INC.	N
NC	230483	LEXCOM TELEPHONE CO.	R
NC	230485	MEBTTEL, INC.	R

NC	230491	N.ST. DBA N. ST.COMM	R
NC	230494	PINEVILLE TEL CO	R
NC	230495	RANDOLPH TEL CO	R
NC	230496	RANDOLPH MEMBERSHIP	R
NC	230497	PIEDMONT MEMBERSHIP	R
NC	230498	SALUDA MOUNTAIN TEL	R
NC	230500	SERVICE TEL CO	R
NC	230501	SKYLINE MEMBERSHIP	R
NC	230502	STAR MEMBERSHIP CORP	R
NC	230503	SURRY MEMBERSHIP	R
NC	230505	TRI COUNTY TEL MEMBR	R
NC	230509	FRONTIER COMMUNICATIONS OF THE CAROLINAS, INC.	N
NC	230510	WILKES MEMBERSHIP	R
NC	230511	YADKIN VALLEY TEL	R
NC	230864	VERIZON SOUTH INC. DBA NORTH CAROLINA	N
NC	235193	SOUTHERN BELL-NC	N
NH	120038	BRETTON WOODS TEL CO	R
NH	120039	GRANITE STATE TEL	R
NH	120042	DIXVILLE TEL CO	R
NH	120043	DUNBARTON TEL CO	R
NH	120045	KEARSARGE TEL CO	R
NH	120047	MERRIMACK COUNTY TEL	R
NH	120049	UNION TEL CO	R
NH	120050	WILTON TEL CO - NH	R
NH	123321	MCTA, INC.	R
NH	125113	NORTHERN NEW ENGLAND TELEPHONE OPERATIONS LLC	N
NY	150071	ARMSTRONG TEL CO-NY	R
NY	150072	FRONTIER-AUSABLE VAL	R
NY	150073	BERKSHIRE TEL CORP	R
NY	150076	CASSADAGA TEL CORP	R
NY	150077	CHAMPLAIN TEL CO	R
NY	150078	CHAUTAUQUA & ERIE	R
NY	150079	CHAZY & WESTPORT	R
NY	150081	CITIZENS HAMMOND NY	R
NY	150084	TACONIC TEL CORP	R
NY	150085	CROWN POINT TEL CORP	R
NY	150088	DELHI TEL CO	R
NY	150089	DEPOSIT TEL CO	R
NY	150091	DUNKIRK & FREDONIA	R
NY	150092	EDWARDS TEL CO	R
NY	150093	EMPIRE TEL CORP	R
NY	150095	FISHERS ISLAND TEL	R
NY	150097	GERMANTOWN TEL CO	R
NY	150099	HANCOCK TEL CO	R
NY	150100	FRONTIER COMM OF NY	R
NY	150104	MARGARETVILLE TEL CO	R
NY	150105	MIDDLEBURGH TEL CO	R



NY	150106	WINDSTREAM NY-FULTON	R
NY	150107	NEWPORT TEL CO	R
NY	150108	NICHOLVILLE TEL CO	R
NY	150109	WINDSTREAM-JAMESTOWN	R
NY	150110	OGDEN TEL DBA FRNTER	R
NY	150111	ONEIDA COUNTY RURAL	R
NY	150112	ONTARIO TEL CO, INC.	R
NY	150113	WINDSTREAM RED JACKT	R
NY	150114	ORISKANY FALLS TEL	R
NY	150116	PATTERSONVILLE TEL	R
NY	150118	PORT BYRON TEL CO	R
NY	150121	FRONTIER-ROCHESTER	N
NY	150121	FRONTIER-ROCHESTER	R
NY	150122	FRONTIER-SENECA GORH	R
NY	150125	STATE TEL CO	R
NY	150128	FRONTIER-SYLVAN LAKE	R
NY	150129	TOWNSHIP TEL CO	R
NY	150131	TRUMANSBURG TEL CO.	R
NY	150133	VERNON TEL CO	R
NY	150135	WARWICK VALLEY-NY	R
NY	154532	CITIZENS-FRONTIER-NY	R
NY	154533	CITIZENS-FRONTIER-NY	R
NY	154534	CITIZENS-FRONTIER-NY	R
NY	155130	VERIZON NEW YORK	N
TN	290280	ARDMORE TEL CO	R
TN	290552	CENTURYTEL-ADAMSVILL	R
TN	290553	BEN LOMAND RURAL	R
TN	290554	BLEDSE TEL COOP	R
TN	290557	CENTURY-CLAIBORNE	R
TN	290559	CONCORD TEL EXCHANGE	R
TN	290561	CROCKETT TEL CO	R
TN	290562	DEKALB TEL COOP	R
TN	290565	HIGHLAND TEL COOP-TN	R
TN	290566	HUMPHREY'S COUNTY	R
TN	290567	UNITED INTER-MT-TN	R
TN	290570	LORETTO TEL CO	R
TN	290571	MILLINGTON TEL CO	R
TN	290573	NORTH CENTRAL COOP	R
TN	290574	CENTURYTEL-OOLTEWAH	R
TN	290575	TENNESSEE TEL CO	R
TN	290576	PEOPLES TEL CO	R
TN	290578	TELLICO TEL CO	R
TN	290579	TWIN LAKES TEL COOP	R
TN	290580	CTZENS-FRNTR-VOL ST	R
TN	290581	UTC OF TN	R
TN	290583	WEST TENNESSEE TEL	R
TN	290584	YORKVILLE TEL COOP	R

TN	290598	WEST KENTUCKY RURAL TELEPHONE	R
TN	294336	CITIZENS-FRONTIER-TN	R
TN	295185	SO. CENTRAL BELL -TN	N
VA	190217	AMELIA TEL CORP	R
VA	190219	BUGGS ISLAND COOP	R
VA	190220	BURKE'S GARDEN TEL	R
VA	190225	CITIZENS TEL COOP	R
VA	190226	NTELOS, INC.	R
VA	190233	VERIZON S-VA(CONTEL)	N
VA	190237	HIGHLAND TEL COOP	R
VA	190238	MGW TEL. CO. INC.	R
VA	190239	NEW HOPE TEL COOP	R
VA	190243	PEMBROKE TEL COOP	R
VA	190244	PEOPLES MUTUAL TEL	R
VA	190248	SCOTT COUNTY COOP	R
VA	190249	ROANOKE & BOTETOURT	R
VA	190250	SHENANDOAH TEL CO	R
VA	190253	VIRGINIA TEL CO	R
VA	190254	CENTEL OF VIRGINIA	R
VA	190479	VERIZON SOUTH-VA	R
VA	190567	UNITED INTER-MT-VA	R
VA	193029	NEW CASTLE TEL. CO.	R
VA	195040	VERIZON VIRGINIA INC	N
VA	197251	SHENANDOAH TELEPHONE COMPANY - NR	R

**Exhibit M**  
**Compliance Plan**

**Before the  
Federal Communications Commission  
Washington, D.C. 20554**

In the Matter of the	)	
	)	
Federal-State Joint Board on Universal Service	)	CC Docket No. 96-45
	)	
Telecommunications Carriers Eligible for	)	WC Docket No. 09-197
Universal Service Support	)	
	)	
i-wireless, LLC Petition for Forbearance from 47	)	
U.S.C. § 214(e)(1)(A)	)	

**I-WIRELESS, LLC’S REVISED COMPLIANCE PLAN**

i-wireless, LLC (“i-wireless” or the “Company”), by its attorney, hereby files its revised plan outlining the measures it will take to implement the conditions imposed by the Federal Communications Commission ( “Commission”) in its recent Order, released June 25, 2010, in the above-captioned matter.<sup>1</sup> Given the severe economic environment that is forcing many lower-income customers to forego wireless service, i-wireless respectfully requests expeditious approval of this plan so that the Company, upon designation as an Eligible Telecommunications Carrier (“ETC”), may quickly deploy much-needed Lifeline services to many low-income customers. i-wireless will provide Lifeline services under the brand name “Access Wireless.”

**BACKGROUND**

The Commission’s *Order* conditionally granted i-wireless’ request for forbearance from the Section 214(e)(1)(A) requirement that a carrier designated as an ETC for purposes of federal universal service support provide services, at least in part, over its own facilities, stating “i-wireless may seek ETC designation to offer discounted services to qualified low-income consumers through

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<sup>1</sup> See *Federal-State Joint Board on Universal Service; In the Matter of i-wireless, LLC Petition for Forbearance from 47 U.S.C. § 214(e)(1)(A)*, Order, FCC 10-117, released June 25, 2010 (“*Order*”).

the universal service Lifeline program<sup>2</sup>.”

The Commission found that a conditional grant of forbearance for i-wireless from the facilities requirement of section 214(e) for the purpose of seeking ETC designation to provide Lifeline support only “will further the statutory goal of providing low-income subscribers access to telecommunications and emergency services, while protecting the universal service fund against waste, fraud and abuse<sup>3</sup>.” The Commission’s grant of forbearance is subject to the following conditions: (a) i-wireless providing its Lifeline customers with 911 and Enhanced 911 (E911) access regardless of activation status and availability of prepaid minutes; (b) i-wireless providing its Lifeline customers with E911-compliant handsets and replacing, at no additional charge to the customer, noncompliant handsets of existing customers who obtain Lifeline-supported service; (c) i-wireless complying with conditions (a) and (b) as of the date it provides Lifeline service; and (d) i-wireless obtaining a certification from each PSAP where the carrier seeks to provide Lifeline service confirming that the carrier provides its customers with 911 and E911 access or self-certifying that it does so if certain conditions are met; (e) i-wireless requiring each customer to self-certify at time of service activation and annually thereafter that he or she is the head of household and receives Lifeline-supported service only from i-wireless; (f) i-wireless establishing safeguards to prevent its customers from receiving multiple Lifeline subsidies from i-wireless at the same address; and (g) i-wireless dealing directly with the customer to certify and verify the customer’s Lifeline eligibility.<sup>4</sup> The Commission required i-wireless to submit a plan describing the measures it would take to implement each one of these conditions within thirty days of the release of the Order.<sup>5</sup> i-wireless is not seeking support for Link-up, as the Commission denied that portion of i-

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<sup>2</sup> *Order* at ¶ 1.

<sup>3</sup> *Order* at ¶ 20.

<sup>4</sup> *See Order* at ¶¶ 11, 16.

<sup>5</sup> *See id.*

wireless' request for forbearance.<sup>6</sup>

### **COMPLIANCE PLAN**

i-wireless commends the Commission's commitment to a nationwide communications system that promotes the safety and welfare of all Americans, including Lifeline customers.<sup>7</sup> i-wireless will comply with all conditions set forth in the *Order*, the provision of this Compliance Plan, all laws and regulations governing its provision of Lifeline-supported prepaid wireless service to customers throughout the United States and in addition take the steps set forth herein.

#### **I. Access to 911 and E911 Services**

In the *Order*, the Commission required i-wireless to provide its Lifeline customers with access to 911 and E911 services immediately upon activation of service, and stated that, in order to demonstrate compliance with the condition, i-wireless must obtain certification from each PSAP where it provides Lifeline service confirming that its customers receive 911 and E911 services. If within 90 days of i-wireless' request, a PSAP has neither provided the certification nor made an affirmative finding that the Company does not provide its customers with 911 and E911 services within the applicable service area, the *Order* allowed i-wireless to self-certify that it meets the requirements.<sup>8</sup> The Commission and consumers are hereby assured that all i-wireless customers will have available access to emergency calling services at the time that Lifeline service is initiated, and that such 911 and E911 access will be available from i-wireless handsets, even if the account associated with the handset has no minutes remaining.

i-wireless can ensure the Commission that all Lifeline customers will have meaningful access to emergency calling services at the time the customer activates Lifeline service, and that such access will continue regardless of the customer's account status or the availability of prepaid

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<sup>6</sup> See *Order* at ¶ 1.

<sup>7</sup> See *Order* at ¶ 12.

<sup>8</sup> See *Order* at ¶ 13.

minutes. The Company's existing practices currently provide access to 911 and E911 services to the extent that these services have been deployed by its underlying carrier, Sprint Nextel ("Sprint"). i-wireless also currently enables 911 emergency calling services for all properly activated handsets regardless of whether the account associated with the handset is active, suspended or terminated. Finally, the Company transmits all 911 calls initiated from any of its handsets even if the account associated with the handset has no remaining minutes.

To satisfy the conditions of the *Order* regarding 911 and E911 services, i-wireless will implement the following measure prior to deploying Lifeline services in a given area. Initially, the Company will confirm that its underlying carrier has deployed E911 services in a specific PSAP territory. i-wireless will obtain the requisite certification from each PSAP where it provides Lifeline service confirming that its customers receive 911 and E911 services.<sup>9</sup> If within 90 days of receiving the Company's request, a PSAP has neither provided such certification nor made an affirmative finding that the Company does not provide its customers with 911 and E911 services within the applicable service area, i-wireless will self-certify that it meets the basic and E911 requirements.

## **II. E911-Compliant Handsets**

The Commission also conditioned its grant of forbearance determination on i-wireless providing only E911-compliant handsets to its Lifeline customers.<sup>10</sup> i-wireless will ensure that all handsets used in connection with the Lifeline service offering will be E911-compliant. In fact, i-wireless' phones have always been and will continue to be 911 and E911-compliant. i-wireless uses phones from Sprint that have been through a stringent certification process in Sprint's handset certification lab, which ensures that the handset models used meet all 911 and E911 requirements. In i-wireless' five year history, only one handset model has failed the E911 process during the

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<sup>9</sup> A form of this PSAP certification request is attached hereto as Exhibit A.

<sup>10</sup> See *Order* at ¶ 11.

handset lab certification, and that is a model the Company did not launch. As a result, any existing customer that qualifies for and elects Lifeline service will already have a 911/E911-compliant handset, which will be confirmed at the time of enrollment in the Lifeline program. Furthermore, in the event that an existing customer does not have an E911-compliant handset, the Company will replace it with a new 911/E911-compliant handset at no charge to the customer. Any new customer that qualifies for and enrolls in the Lifeline program is assured of receiving a 911/E911-compliant handset as well, free of charge.

### **III. Certification of Lifeline Customers' Eligibility**

To safeguard against misuse of the Lifeline service plan, the *Order* required i-wireless to deal directly with the customer and require each customer to self-certify under penalty of perjury at time of service activation and annually thereafter that they are the head of household and receive Lifeline-supported service only from i-wireless.<sup>11</sup> The Commission also required i-wireless to establish safeguards to prohibit more than one supported i-wireless service at each residential address.<sup>12</sup> Unless and until the Commission's issuance of new rules in its Lifeline rulemaking proceeding that set forth different requirements, i-wireless proposes the following plan to implement these certification and verification conditions (the plan would be modified to conform to any new rules and orders, once issued and effective):

#### **A. Policy**

i-wireless will comply with all certification and verification requirements for Lifeline eligibility established by states where it is designated as an ETC. In states where there are no state-imposed requirements, i-wireless will comply with the certification and verification procedures in effect in that state as reflected on the website of the Universal Service Administration Company.

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<sup>11</sup> See *Order* at 16.

<sup>12</sup> See *id.*



For any states which do not mandate Lifeline support and/or which do not have established rules of procedure in place, i-wireless will certify at the outset and will verify annually consumers' Lifeline eligibility in accordance with the Commission's requirements.

**B. Certification Procedures**

i-wireless will implement certification procedures that enable consumers to demonstrate their eligibility for Lifeline assistance by contacting i-wireless in person or via telephone, facsimile, or the internet. At the point of sale, consumers will be provided with printed information describing i-wireless' Lifeline program, including eligibility requirements, and with instructions for enrolling. Consumers will be signed up in person or directed, via company literature, collateral or advertising, to a toll-free telephone number and to i-wireless' website, which will contain a link to information regarding the Company's Lifeline service plan, including a detailed description of the program and state-specific eligibility criteria. i-wireless' application form for its Access Wireless service will identify that it is a "Lifeline" application. i-wireless understands and accepts the Commission's requirement that the Company have direct contact with all customers applying for participation in the Lifeline program.<sup>13</sup> i-wireless will have direct contact with all customers applying for Lifeline service, either in person through its employees or agents or via the telephone (including facsimile) or mail. i-wireless will provide Lifeline-specific training to all personnel, whether employees or agents, that interact with actual or prospective consumers with respect to obtaining, changing or terminating its Lifeline services.

Consumers who do not complete the application process in person must return the signed application and support documentation to the Company by mail, fax, email or other electronic transmission. The Company will accept electronic signatures that meet the requirements of the Electronic Signatures in Global and National Commerce Act, 15 USC 7001-7006, and any

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<sup>13</sup> See *Order* at ¶ 16.

applicable state laws. Processing of consumers' applications, including review of all application forms and relevant documentation, will be performed under i-wireless' supervision by managers experienced in the administration of the Lifeline program.

i-wireless will ensure that all required documentation is taken care of properly by using state-specific compliance checklists. For states with program-based eligibility criteria, the form will list each of the qualifying programs, and the applicant will be required to identify the program(s) in which they participate, and to furnish proof that they currently participate in such program(s), regardless of whether such proof is required pursuant to state law. For states with income-based eligibility criteria, the applicant will be required to certify under penalty of perjury that their household income does not exceed the relevant threshold (*e.g.*, 135% of the Federal Poverty Guidelines for federal default states) and will be required to provide proof of income-based eligibility. Notwithstanding the foregoing with respect to program or income eligibility, for states that require i-wireless to enroll subscribers identified by the state or as eligible in a state database, i-wireless may continue to rely on the state identification or database. In addition, the Lifeline application form will include a certification section where the applicant must attest and sign under penalty of perjury that the applicant's representations are true and correct. Applicants will also be required to certify under penalty of perjury that they are head of their household and receive Lifeline-supported service only from i-wireless. Penalties for perjury will be clearly-stated on the certification form, as required by the *Order*.<sup>14</sup> i-wireless will use substantially the following form of its certification, printed in at least 10 point font:<sup>15</sup>

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<sup>14</sup> See *Order* at ¶ 17.

<sup>15</sup> Among other things, i-wireless may, at its option, periodically update or change the list of Lifeline services identified in certification item no. 3 to reflect its judgment as to the most common prepaid wireless Lifeline products offered in its service areas, taken together, under names that are not readily identifiable as Lifeline services.

By signing below, I certify under penalty of perjury – (additionally, please initial each of the 5 statements below)

1. The information contained within this application is true and correct. I acknowledge that providing false or fraudulent documentation in order to receive assistance is punishable by law. \_\_\_\_\_
2. I understand that Lifeline is only available for one phone line per household, whether landline or wireless. I am the head of household and will only receive Lifeline from Access Wireless. \_\_\_\_\_
3. I am not currently receiving a Lifeline telephone service from any other landline or wireless telephone company. (Some Lifeline services are not marketed under a “Lifeline” name; these include Lifeline services sold under the names Life Wireless, TAG Mobile, Reachout Wireless, Assurance Wireless and Safelink.) \_\_\_\_\_
4. Furthermore, I certify that I will only use this phone for my family’s own use and will not resell it. \_\_\_\_\_
5. I will notify Access Wireless immediately if I no longer qualify for Lifeline, or if I have a question as to whether I would still qualify. \_\_\_\_\_

Perjury and false statements are punishable by fines and/or imprisonment.

Signature (required) \_\_\_\_\_ Date \_\_\_\_\_

Finally, the application forms will require each applicant to provide their name and primary residential address. i-wireless will incorporate this information into its customer information database. Prior to initiating service for a customer, the Company will check the address of each Lifeline applicant against its database to determine whether or not it is associated with a customer that already receives i-wireless Lifeline service, and will then review the application to ascertain whether the applicant is attempting to receive Lifeline-supported service for more than one handset associated with the address. i-wireless will deny the Lifeline application of any such individual and advise the applicant of the basis for the denial. In addition, prior to requesting a subsidy, i-wireless will process and validate i-wireless’ subsidy data to prevent: (1) Duplicate Same-Month Lifeline Subsidies (“Double Dip,” *i.e.*, any household that is already receiving a Lifeline subsidy from i-

wireless will be automatically prevented from receiving a second lifeline subsidy in that same month); and (2) Inactive lines receiving subsidy (*i.e.*, systems compare all subsidy requests to underlying network status to ensure that subsidies are requested only for active lines).<sup>16</sup> i-wireless shares the Commission's concern about abuse of the Lifeline program and is thus committed to the safeguards stated herein, with the belief that the procedures it will implement will prevent i-wireless customers from engaging in such abuse of the program, inadvertently or intentionally.

### **C. Annual Verification Procedures**

As required by the Commission's *Order*, i-wireless will require every consumer enrolled in the Lifeline program to verify on an annual basis that they are the head of their household and only receive Lifeline service from i-wireless.<sup>17</sup> i-wireless will notify each participating Lifeline consumer prior to their service anniversary date that they must confirm their continued eligibility in accordance with the applicable requirements. This notification will be mailed via the U.S. Postal Service to the address the subscriber has on record with i-wireless. The notice will explain the actions the customer must take to retain Lifeline benefits, when Lifeline benefits may be terminated, and how to contact i-wireless. Customers will have 60 days to complete the form, certify under penalty of perjury that they are the head of household and receive Lifeline service only from i-wireless, and return the form to i-wireless by mail. Anyone who does not respond to the mailing and certify their continued eligibility will be removed from the Lifeline program.

Currently, customers will be required to complete the verification process by mail; however, i-wireless may offer additional options, such as web-based methods, in the future. Such verification will be required in order for the consumer to continue to receive free Lifeline service or

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<sup>16</sup> See Usage Policy, below.

<sup>17</sup> See *Order* at ¶ 16.

to purchase prepaid airtime from i-wireless at the discounted rate only available to those customers who are enrolled in its Lifeline program.

#### **IV. Additional Measures to Prevent Waste, Fraud, and Abuse**

##### **A. Non-usage Policy**

i-wireless will implement a non-usage policy whereby we will identify Lifeline customers that have not used the Company's Lifeline service for 60 days, and cease to claim Lifeline reimbursements for such customers if they do not use their service within a 30-day grace period following the initial 60-day non-usage period.<sup>18</sup> Specifically, if no usage appears on an i-wireless Lifeline customer's account during any continuous 60-day period, i-wireless will promptly notify the customer that the customer is no longer eligible for i-wireless Lifeline service subject to a 30-day grace period. During the 30-day grace period, the customer's account will remain active, but i-wireless will engage in outreach efforts to determine whether the customer desires to remain on the Company's Lifeline service. If the customer's account does not show any customer-specific activity during the grace period (such as making or receiving a voice call, sending a text message, downloading data or adding money to the account), i-wireless will deactivate Lifeline services for that customer. In addition, i-wireless will not seek to recover a federal Universal Service Fund subsidy for the minutes provided to the customer during the grace period or thereafter report that customer on its USAC Form 497 unless the customer re-initiates service.

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<sup>18</sup> i-wireless will consult with the state commissions (PUCs) in the states where it provides Lifeline services regarding implementation of the policy described above. i-wireless expects that certain state PUCs or similar agencies may seek to incorporate state-specific variations to the policy. Consequently, i-wireless may modify the parameters of the inactivity policy described herein after consultation with the respective state PUCs.

## **B. Customer Education with Respect to Duplicates**

To supplement its verification and certification procedures, and to better ensure that customers understand the Lifeline service restrictions with respect to duplicates, i-wireless will implement measures and procedures to prevent duplicate Lifeline benefits being awarded to the same household. These measures entail additional emphasis in written disclosures as well as live due diligence.

- a) Call Center Scripts – i-wireless will emphasize the “one Lifeline phone per household” restriction through its interaction with the potential customer at the call center. The call center introduction script substantially in the form that i-wireless would use is attached as Exhibit B.
- b) Sales Scripts – i-wireless will also emphasize the “one Lifeline phone per household” restriction through its direct sales contact with the potential customer. The sales training materials will include a discussion of the limitation to one Lifeline phone per household, and the need to ensure that the customer is informed of this restriction. Attached as Exhibit C is a sample of training material that would meet the requirements of this provision.
- c) Marketing, Advertising and Website Content – i-wireless, in its marketing materials, will reinforce the limitation of one Lifeline phone per household. The following statement will appear in conspicuous place in bold font in an offsetting color, minimum 10 point font, to ensure it is not overlooked.

**Note: By law, the Lifeline program is only available for one phone per household**

This statement will also appear on the company’s website ([www.accesswireless.com](http://www.accesswireless.com)) during the customer information/education cycle. At the point on its website when a customer inputs his/her zip code to verify that Access Wireless/i-wireless offers service in their area, i-wireless would display the above message in the section where the website explains the service and rate plan options. The message would flash to draw attention to it. In addition, i-wireless will include in its printed materials and website substantially the following statement “Not all Lifeline supported programs are identified as ‘Lifeline’ and may be marketed under other brand names.”

## **D. Cooperation with state and federal regulators**

i-wireless has and will continue to cooperate with federal and state regulators to prevent waste, fraud and abuse, including:

- Providing state commissions (PUC), the FCC or USAC upon request with data

that will enable that state, the FCC or USAC to determine whether some consumers are enrolled in more than one Lifeline program. Specifically, i-wireless agrees to make available state-specific customer data, including name and address, upon request to each state PUC where it operates, the FCC or USAC for the purpose of permitting the PUC, FCC or USAC to determine whether an existing Lifeline customer receives Lifeline service from another carrier, and will participate in such a duplicate resolution process, provided that costs for participation are reasonable or defrayed through the universal service contribution mechanisms;

- Promptly investigate any notification that it receives from a state PUC, the FCC or USAC that one of its customers already receives Lifeline service from another carrier;
- Immediately deactivate a customer's Lifeline service and no longer report that customer on USAC Form 497 if i-wireless' investigation, a state, the FCC or USAC concludes that the customer receives Lifeline services from another carrier in violation of the Commission's regulations and that i-wireless' Lifeline service should be discontinued such as a de-enrollment notification pursuant to the FCC's June 17, 2011 Report and Order (Section III, B.).

## **V. Included Usage**

i-wireless will offer at least one Lifeline plan that provides consumers with at least 250 included minutes-of-use per month at the lowest end user rate permitted under FCC rules. This provision will expire 36 months from the date of approval of this Compliance Plan.

## **CONCLUSION**

i-wireless submits that its Compliance Plan fully satisfies the conditions set forth in the Commission's *Order* granting forbearance to the Company. Implementation of the procedures described herein will promote public safety and should ensure that Lifeline customers have access to 911 and E911 services while safeguarding against misuse of the Company's Lifeline services. Accordingly, i-wireless respectfully requests that the Commission expeditiously approve its Compliance Plan so that i-wireless may begin providing the benefits of much-needed Lifeline service to qualifying low-income consumers as quickly as possible.

Respectfully submitted,

I-WIRELESS, LLC

/s/

---

Lance J.M. Steinhart  
Lance J.M. Steinhart, P.C.  
1725 Windward Concourse  
Suite 150  
Alpharetta, Georgia 30005  
(770) 232-9200

*Its Counsel*

Dated September 9, 2011



## **Exhibit A**

### PSAP Certification Request



[Date]

Public Safety Answering Point Coordinator

Name

Address Line 1

Address Line 2

[City], [state] [zip]

**PSAP Certification for i-wireless Lifeline Program**

Dear PSAP Coordinator,

This letter is being sent to inform you that i-wireless, LLC ("i-wireless") plans to offer Lifeline service in your state in the near future, and we are seeking your assistance with PSAP certification.

Lifeline provides affordable phone service for more than 7 million low-income Americans. Eligible consumers receive approximately a \$15 discount off of their monthly telephone service charges. Presently, only about one-third of the Lifeline eligible households subscribe to the program. i-wireless is pleased to be one of the companies to offer Lifeline in your state.

Before we can offer this service in [state], the FCC requires that i-wireless receive the following:

1. Forbearance from the facilities based services requirement of the Communications Act of 1934
2. Eligible Telecommunications Carrier ("ETC") status for your state
3. Certification from Public Safety Answering Points ("PSAPs") in areas where i-wireless will offer Lifeline, confirming that 911/E911 access will be available to Lifeline customers regardless of activation status and availability of prepaid minutes

On June 22, 2010 the Federal Communications Commission (FCC) granted i-wireless forbearance from the facilities-based services requirement (see enclosed Forbearance Order), and i-wireless is currently awaiting ETC status for the state of [state].



Although i-wireless is still awaiting ETC status for your state, we are moving forward with the PSAP certification process in order to be prepared to launch Lifeline in your area soon after ETC status is received. i-wireless is requesting your certification based on the information you receive in this letter or any other information you may request of us.

Please keep in mind that i-wireless provides prepaid wireless telecommunications services to customers using the Sprint PCS network. Sprint Nextel is a nationwide facilities-based carrier that provides wholesale capacity to resellers such as i-wireless. All i-wireless 911/E911 calls are routed by Sprint to the appropriate PSAP, the same way that Sprint routes its own 911/E911 calls.

Sprint has deployed the FCC required Phase II caller location functionality on their CDMA network in your area, which enables Sprint and i-wireless to provide E911 access. In addition, all i-wireless customers will be provided with E911 compliant handsets.

Please review and sign the enclosed PSAP certification form and return it in the postage-paid envelope provided. i-wireless will keep this form on file in case the state or federal commissions request a review of this documentation. **If i-wireless does not receive your signed form (or documentation stating that i-wireless does not provide 911/E911 functionality in your area) within the next 90 days, i-wireless is permitted to and will self-certify 911/E911 compliance for your area.**

If you have any questions relating to the certification process or you would like to request a test handset, please contact [i-wireless contact] at i-wireless via email (email address), regular mail or fax (fax number). Please include your PSAP jurisdiction along with your name on the attached form. Please call me (phone number) should you have any questions or requests.

Thank you for your assistance in enabling i-wireless to offer Lifeline to low-income households in your area.

Sincerely,

[i-wireless contact]  
i-wireless, LLC



**To: [i-wireless contact]  
i-wireless Lifeline Program  
PSAP Certification Form**

**State of [state]**

PSAP Name/Jurisdiction: .....

PSAP Coordinator: .....

Business Address: .....

.....

.....

I am the PSAP Coordinator for the above listed Public Safety Answering Point ("PSAP") and I am responsible for 911/E911 service in accordance to the rules and regulations of the Federal Communication Commission (FCC).

i-wireless has informed me that on June 22, 2010 the Federal Communications Commission (FCC) granted them forbearance from the facilities-based services requirement of the Communications Act of 1934, and they are currently awaiting ETC status for the state of [state]. We understand that the i-wireless designation as an ETC is subject to conditions including certification from PSAPs where they will offer Lifeline service, confirming that Lifeline customers will have 911/E911 access regardless of activation status and availability of prepaid minutes.

i-wireless has also confirmed that they provide prepaid wireless telecommunications services to customers using the Sprint PCS network and that Sprint Nextel is a nationwide facilities-based carrier that provides wholesale capacity to resellers such as i-wireless. It is understood that i-wireless 911/E911 calls are routed by Sprint to the appropriate PSAP, the same way that Sprint routes its own 911/E911 calls.

Finally, i-wireless communicated that Sprint has deployed the FCC required Phase II caller location functionality on their CDMA network in my area, which enables Sprint and i-wireless to provide E911 access, and that all i-wireless customers will be provided with E911 compliant handsets.

Based on all of the information provided by i-wireless and belief, as PSAP Coordinator, I hereby certify that i-wireless has provided sufficient proof that they will comply with the FCC requirement to provide Lifeline customers with 911/ E911 service regardless of activation status and availability of prepaid minutes.

.....  
Date

.....  
Signature of PSAP Coordinator

## **Exhibit B**

### Call Center Script

**Access Wireless (i-wireless Lifeline) Call Center Script**  
**Call Initiation – Part 1**  
**Created February 4, 2011**  
**Updated May 26, 2011 for discussions with the FCC**

**Greeting: “Thank you for calling Access Wireless. This is (Agent Name). May I please have your last name and the state you are calling from?”**

**\*\* Agent – Perform customer search while asking customer \*\***

- **“Are you calling for a new application or to check status?”**
- **If status of application: “May I please have your address?”**
- **If new application:** Validate that they are the head of household and that they are not currently receiving a Lifeline subsidized phone with the following line of questioning:
  - a) **“Do you currently have wireless or home phone service?”** (if no, skip (b) – (e))
  - b) **If yes: “Is that [wireless or home phone] service a subsidized service or do you pay full price?”**
  - c) **If subsidized: “By law, the Lifeline program is only available for one phone per household. Do you know if your current phone is subsidized under the Lifeline program?”**
  - d) **If they are unsure: “Who is your provider for that service?”** (Safelink, Assurance, TSI / Nexus Communications, Smith Bagley or DPI only offer Lifeline so go to (e) – if a more ambiguous provider, e.g., Verizon, Pacific Bell or Illinois Bell, try to question further to determine if they have Lifeline).
  - e) **If it is Lifeline: “We cannot provide you with a second Lifeline phone. If there is a problem with that service or you want to be on our service, you must first disconnect your service with your other provider and then call back to establish service with us.”**

**\*If it is evident that they don’t already have Lifeline service then click on add new customer and fill out appropriate information.**

## **Exhibit C**

Sample Sales Training Material



**Access Wireless (i-wireless Lifeline)**  
**Sales Training Materials**  
**Updated May 26, 2011 for discussions with the FCC**

**Refer to the state specific one page Sales Information sheet for state specific, program information.**

If customer is interested in Lifeline service and is eligible under one of the programs or the income threshold listed in the **“Who is eligible to receive an Access Wireless phone and Free Service?”** section of the state specific information sheet, please complete the following procedures:

1. Ask the following questions:
  - a) “Do you currently have wireless or home phone service?” (if no, skip (b) – (f))
  - b) **If yes:** “Is that [wireless or home phone] service a subsidized or no-charge service, or do you pay full price?”
  - c) **If subsidized:** “By law, the Lifeline program is only available for one phone per household. Do you know if your current phone is subsidized under the Lifeline program?”
  - d) **If they are unsure:** “Who is your provider for that service?” (Safelink, Assurance, TSI / Nexus Communications, Smith Bagley or DPI only offer Lifeline so go to (e) – if a more ambiguous provider, e.g., Verizon, Pacific Bell or Illinois Bell, try to dig further to determine if they have Lifeline).
  - e) **If it is Lifeline:** “We cannot provide you with a second Lifeline phone. If there is a problem with that service or you want to be on our service, you must first disconnect your service with your other provider and then call back to establish service with us.”

If it is evident that they don’t already have Lifeline service, then proceed to 2.:

2. Click on “check customer’s address” to perform an address check to insure there isn’t already an Access Wireless phone registered to that address.
  - a) If there is an active Access Wireless phone registered at that address, then thank customer for their interest, explain the situation and say “by law, the Lifeline program is only available for one phone per household”.
  - b) If there isn’t an active Access Wireless phone registered at that address, proceed to 3.
3. Assist customer in filling out the state specific application. Use the application guide/checklist to make sure it is filled out appropriately. Review the documentation for program/income proof closely against the guidelines to make sure the documentation meets the requirements.





### **What is Access Wireless by i-wireless?**

Access Wireless from i-wireless is a part of the Lifeline Assistance program designed to ensure that quality telecommunications services are available to low-income customers at reasonable and affordable rates. Access provides program and income-eligible customers with a free wireless phone and free monthly service. The phone offers in-demand features: voicemail, text, three-way calling, call waiting, caller ID and access to 911.

### **Who is eligible to receive an Access Wireless phone and Free Service?**

Eligibility guidelines vary by state, but in Illinois, individuals qualify if they participate in a public assistance program such as Food Stamps (SNAP), Medicaid, Low Income Home Energy Assistance Program (LIHEAP), National Free School Lunch, Federal Housing/Section 8 Assistance, Supplemental Security Income (SSI; Not the same as Social Security Benefits) or Temporary Assistance to Needy Families (TANF).

**Note: Lifeline is only available to the head-of-household. Furthermore, there is a limit of only one Lifeline phone per household. Please make sure that the customer does not already receive a Lifeline subsidy from another provider**

### **How to Apply?**

In Illinois, applicants must provide proof of program participation and complete an application (attached). Program documents submitted must be "a valid, dated copy of a document issued by a qualifying agency." It also needs to show the individual's name and address. Typically this needs to be a dated enrollment letter showing the name and address of the eligible individual. Submission of a program card typically will not be sufficient because many of the enrollment cards do not show the name, address, or date of eligibility. Many of the state issued cards (i.e. food stamp) only display an ID number similar to the debit card look.

### **What's included with my Access phone service?**

Access offers eligible customers a free wireless phone and free service. The minutes can be used for local or domestic long distance calling. There are no bills, no long-term contracts, no activation fees, and no recurring fees or surcharges for Access Wireless customers. Upon verification, Access Wireless users may renew their service on an annual basis.

### **Customers may choose between 3 plan options:**

- a. **150 FREE MINUTES**: These minutes will be added on the first day of the monthly service cycle, and may be used for making or receiving voice calls. All incoming text messages and calls to Customer Care are FREE. Unused minutes will be carried over to the next month.
- b. **250 FREE MINUTES**: These minutes will be added on the first day of the monthly service cycle, and may be used for making or receiving voice calls. All incoming and outbound text messages will be deducted at a rate of 1 minute per text. All calls made to Customer Care from the handset will be deducted from the monthly minute allocation. All unused minutes expire at the end of the month. If you run out of minutes within the monthly service period and you have money on your account, each minute of talk or text message will cause a deduction of \$0.10 from your account.
- c. **\$15 Credit** - Customers can apply a \$15 credit (free to the customer) to any retail plan of their choice. In this way, Access Wireless customers can opt into the 200 minute, unlimited text messaging and 200 MB of data plan for only \$10 + tax (this plan is normally \$25 less the \$15 credit).

**Exhibit N**

**Key Management Resumes**

## **Paul McAleese**

Paul McAleese, CEO and co-founder of i-wireless, LLC, has 20 years of experience in the wireless telecommunications industry.

In 2005, Mr. McAleese co-founded i-wireless LLC, a privately held company with 51-200 employees. i-wireless is the private-label wireless service sold exclusively within the Kroger family of stores. As one of the nation's largest grocery retail chains, Kroger operates over 2500 stores under two dozen local banner names including: Kroger, Ralphs, Fred Meyer, Food4Less, Fry's, King Soopers, Smith's, Dillons, and QFC.

Unique among US wireless operators, i-wireless offers Kroger customers the ability to earn Free Minutes loyalty rewards on their i-wireless phone when they use their Shopper's card on qualifying purchases, potentially eliminating their cell phone bill altogether.

i-wireless is proud to count amongst its investors Spark Capital, Sprint, and the Kroger Company.

CEO and co-founder

i-wireless LLC

July 2005 - Present (6 years 8 months)

Chief Marketing Officer

Cincinnati Bell

January 2004 - July 2005 (1 year 7 months)

General Manager, Consumer Markets

O2 PLC, London

June 1998 - December 2003 (5 years 7 months)

Vice-President, Consumer Marketing & Sales Rogers Wireless August 1992 - May 1998 (5 years 10 months)

## **John Willis**

John Willis is Chief Operating Officer of i-wireless LLC, a privately held company with 51-200 employees. i-wireless is the private-label wireless service sold exclusively within the Kroger family of stores. As one of the nation's largest grocery retail chains, Kroger operates over 2500 stores under two dozen local banner names including: Kroger, Ralphs, Fred Meyer, Food4Less, Fry's, King Soopers, Smith's, Dillons, and QFC.

Prior to his role as COO, Mr. Willis served as Vice President of Operations for i-wireless, LLC. Before joining i-wireless, LLC in 2006, Mr. Willis served as Director at Cincinnati Bell and Manager at Verizon Wireless.

**Exhibit O**

**Sample Lifeline Certification Form**

This signed authorization is required in order to enroll you in the Lifeline Program in your state. This authorization is only for the purpose of verifying your participation in these programs and will not be used for any other purpose. Service requests will not be processed until this form has been received and verified by Company. I authorize the company to access any records required to verify my statements on this form and to confirm my eligibility for the Lifeline program.

**Things to know about the Lifeline Program:**

- (1) Lifeline is a federal benefit.
- (2) Lifeline Service is available for only one line per household. A household cannot receive benefits from multiple providers; and
- (3) A household is defined, for purposes of the Lifeline Program, as any individual or group of individuals who live together at the same address and share income and expenses.

**Applicant Information:**

First Name: \_\_\_\_\_ MI: \_\_\_\_\_ Last Name: \_\_\_\_\_ Date of Birth: Month \_\_\_\_ Day \_\_\_\_ Year \_\_\_\_

Social Security Number (or Tribal ID Number) : \_\_\_\_\_ (XXX-XX-XXXX) Contact Telephone Number: \_\_\_\_\_

Residence Address (No P.O. Boxes, Must be your principal address): This address is ☐ Permanent ☐ Temporary ☐ Multi-Household

\_\_\_\_ APT/ Floor/ Other \_\_\_\_\_ City: \_\_\_\_\_ State: \_\_\_\_\_ ZIP Code: \_\_\_\_\_

Billing Address (May Contain a P.O. Box)

\_\_\_\_ APT/ Floor/ Other \_\_\_\_\_ City: \_\_\_\_\_ State: \_\_\_\_\_ ZIP Code: \_\_\_\_\_

\_\_\_\_ I hereby certify that I participate in at least one of the following programs: (Check all that apply)

Initial Here

- \_\_\_\_ Supplemental Nutrition Assistance Program (SNAP)
- \_\_\_\_ Supplemental Security Income (SSI)
- \_\_\_\_ Federal Public Housing Assistance
- \_\_\_\_ Low- Income Home Energy Assistance Program (LIHEAP)
- \_\_\_\_ National School Lunch Program (free program only)
- \_\_\_\_ Temporary Assistance for Needy Families (TANF)
- \_\_\_\_ Medicaid

\_\_\_\_ I certify that my household income is at or below 135% of the Federal Poverty Guidelines (FPG). There are \_\_\_\_\_ individuals in my household.

Initial Here

**You must provide documented proof of your participation in the above programs or your income.**

I certify, under penalty of perjury: *(Initial by Each Certification)*

- \_\_\_\_ (1) The information contained in my application remains true and correct to the best of my knowledge and I acknowledge that willfully providing false or fraudulent information to receive Lifeline benefits is punishable by law and may result in me being barred from the program.
- \_\_\_\_ (2) I am a current recipient of the program checked above, or have an annual household income at or below 135% of the Federal Poverty Guidelines.
- \_\_\_\_ (3) I have provided documentation of eligibility if required to do so.
- \_\_\_\_ (4) I understand that I and my household can only have one Lifeline-supported telephone service. Access Wireless has explained the one-per household requirement. I understand that violation of the one-per-household requirement constitutes a violation of the FCC's rules and will result in my de-enrollment from the Lifeline program, and could result in criminal prosecution by the United States Government.
- \_\_\_\_ (5) I attest to the best of my knowledge, that I and no one in my household is receiving a Lifeline-supported service from any other land line or wireless company such as Safelink, Assurance, or Reachout Wireless.
- \_\_\_\_ (6) I understand my Access Wireless Lifeline service is non-transferable. I may not transfer my service to any individual, including another eligible low-income consumer.
- \_\_\_\_ (7) I understand that if my service goes unused for sixty (60) days, my service will be terminated; I will be notified thirty (30) days before termination, during which period I may use the service or contact Access Wireless to confirm that I want to continue receiving their service.
- \_\_\_\_ (8) I will notify Access Wireless within thirty (30) days if I no longer qualify for Lifeline. I understand this requirement and may be subject to penalties if I fail to notify my phone company. Specifically, I will notify my company if:
  - (1) I cease to participate in the above federal or state program, or my annual household income exceeds 135% of the Federal Poverty Guidelines.
  - (2) I am receiving more than one Lifeline supported service;
  - (3) I no longer satisfy the criteria for receiving Lifeline support.
- \_\_\_\_ (9) I will notify Access Wireless within thirty (30) days of moving. Additionally, if my address listed above is a temporary address, I understand that I must verify my address with Access Wireless every ninety (90) days. If I fail to respond to Access Wireless' address verification attempts within thirty (30) days, my Access Wireless Lifeline service may be terminated.
- \_\_\_\_ (10) Access Wireless has explained to me that I am required each year to re-certify my continued eligibility for Lifeline. If I fail to do so within thirty (30) days, it will result in the termination of my Access Wireless Lifeline service.
- \_\_\_\_ (11) I authorize and understand that Access Wireless may provide to state and Federal agencies, as required by law, for the purposes of complying with the Lifeline program all the information related to my account including but not limited to my name, date of birth, social security, usage history, address and phone number.
- \_\_\_\_ (12) I understand that my name, telephone number, date of birth, last four digits of my social security number, and address will be divulged to the Universal Service Administrative Company (USAC) and/or its agents for the purpose of verifying that I do not receive more than one Lifeline subsidy.
- \_\_\_\_ (13) I understand that if USAC identifies I am receiving more than one Lifeline subsidy, all carriers involved may be notified so that I may select one service and be de-enrolled from the other.

**FOR OFFICE USE ONLY:**  
Company Representative:

Documentation Verified:

Representative Signature:

Date:

Is this a multi- family dwelling? \_\_\_\_\_

\_\_\_\_\_  
APPLICANT'S SIGNATURE

\_\_\_\_\_  
DATE

## **Exhibit P**

### **Lifeline Terms and Conditions**



**Call 1-800-464-6010**  
or print out an application to apply.

# Terms and Conditions

## Introduction

Access Wireless is a Lifeline Assistance program supported by the federal Universal Service Fund program ("Lifeline Assistance"). These Terms of Service apply to Access Wireless services and mobile phones activated on Access Wireless services. Please read these terms carefully.

These Terms of Service become effective by doing any of the following: activating an Access Wireless phone or using your Access Wireless phone after you make a change to your account. If you do not want to accept these terms, don't do either of these things and contact Access Wireless at 1-800-464-6010. When you accept these Terms of Service, you represent that you are at least 18 years of age and that you meet the eligibility standards for Access Wireless service.

## Our Right to Make Changes

Our service is provided at our discretion. We may change our Terms of Service, including pricing for paid service options from time to time. Unless expressly prohibited by law, we reserve the right to modify or cancel this service or your account or take corrective action at any time and for any reason, including, but not limited to, your violation of any provision of these Terms of Service. Check the Access Wireless website [www.accesswireless.com](http://www.accesswireless.com), for the most recent pricing. Your right to use our service is subject to our business policies, practices and procedures, rates and these Terms of Service, which we may change at any time. We will notify you of any change to these Terms of Service that are determined to be materially adverse to you 30 days in advance of such change. If you do not terminate your service within 30 days of receiving the notice of a change in these Terms of Service, you agree to accept any such changes.

## Mobile Telecommunications Services

i-wireless LLC provides Access Wireless mobile telecommunications services using the Nationwide Sprint Network exclusively with Access Wireless phones provided free of charge as well as i-wireless phones purchased from Kroger-owned store locations. You cannot use our service with any other mobile phone or device or on any other network, and you may not use your Access Wireless phone or device with any other service or network. Airtime may be used for domestic and international calling from the United States and for related services as provided in these Terms of Service.

The Access Wireless service is for personal use only. You may not use our service in a manner that interferes with another Access Wireless or i-wireless customer's use of our service. We have determined that our ability to provide good service may be impaired when customers place abnormally high numbers of calls, send or receive unusually high numbers of messages, or repeatedly place calls of unusually long duration, relative to typical usage by other Access Wireless or i-wireless customers on similar service plans. Such atypical usage suggests that a mobile phone is being used other than for personal use in violation of these Terms of Service. Unlimited voice services are provided solely for live dialogue between two individuals. Unlimited voice services may not be used for monitoring services, data

transmissions, or other connections that do not consist of uninterrupted live dialogue between two individuals. Access Wireless phones and mobile phone numbers may not be used for pager or voicemail-only service, and Access Wireless may terminate any account if usage is limited to pager service or voicemail retrieval service.

You agree not to use Access Wireless services in any way that is illegal, fraudulent or abusive, as determined by Access Wireless in its sole discretion. You may not alter any of the hardware or software on your Access Wireless phone for any purpose. We may change your mobile phone's software, applications or programming remotely and without notice, in order to address software compatibility and other system and/or network issues. We will try to minimize any disruption, but this may affect stored data or other personal information or programming on your mobile phone for which we are not responsible. Access Wireless phones may not be purchased in bulk or sold to third parties.

The software and Data Content on the Access Wireless and i-wireless phones, including the operating system, applications, data, information, music, games, images, text and other material, are owned by i-wireless or its business partners. You are permitted to use this software and Data Content solely in connection with your use of the Access Wireless phone with our service as expressly authorized under these Terms of Service. You may not distribute or upload any pre-loaded software or content to another device or transmit or broadcast the software or content, or otherwise copy or use the software or content in any manner not expressly authorized under these Terms of Service or any other governing terms of use relating to any downloaded content or applications. If you violate these Terms of Service, including without limitation by using an Access Wireless phone or device on another network without our prior written consent by modifying any hardware or software on an Access Wireless phone or device, or by distributing, copying or otherwise using any of the software or content on an Access Wireless phone in a manner that is not authorized by these Terms of Service or any other governing terms of use relating to any downloaded content or applications, your license to the software and content shall terminate immediately and your continued use will constitute copyright infringement.

Access Wireless service is only available in geographic areas covered by the digital service network footprint of the Nationwide Sprint Network and where we have the appropriate federal, state and local approvals. If laws, regulations or requirements change in a particular jurisdiction, we may need to discontinue your service. Local phone numbers may not be available in certain markets.

Wireless services use radio transmissions and are therefore affected by limitations. Coverage is not available everywhere. Quality of service may be affected by conditions beyond our control, including atmospheric, geographic, or topographic conditions, or by damage to your mobile phone. We do not warrant or guarantee that service will be available at any specific time or geographic location, or that service will be provided without interruption. We may give credit for continuous service interruption of more than 24 hours on a case-by-case basis, if such interruption was reasonably within our control, and you notify Access Wireless at 1-866-594-3644 within seven days of the interruption. Any statements or maps provided by us, our agents, or dealers about coverage are only intended to provide high-level estimates of our coverage areas when using our service outdoors under optimal conditions and do not mean that service will be available under all circumstances, at all times or without interruption. Estimating wireless coverage and signal strength is not an exact science. There are gaps in coverage within our estimated coverage areas that, along with other factors both within and beyond our control, may result in service interruptions, slower data speeds, or lower quality of service. You should therefore never solely rely on your mobile phone for emergency calls, such as to 911.

Rates that vary based on the time of a call will be determined based on the location of the network equipment providing service for a particular call and not on the location of your mobile phone or your mobile phone's area code. Airtime usage is measured from the time the network begins to process the call (before the phone rings or the call is answered) through the network's termination of the call (after you hang up). Therefore, call time data displayed on your mobile phone may be inaccurate and may not be relied upon for billing purposes. Airtime charges apply when accessing voicemail via an Access Wireless phone once free voice minutes have been depleted.

## Availability



Access Wireless is only available for activation by customers who reside in the areas in which i-wireless LLC, or in certain cases, an affiliate has been designated as an Eligible Telecommunications Carrier (“ETC”) and where i-wireless has received Public Service Answering Point (“PSAP”) approval. Your principal residence address must be within an i-wireless ETC and PSAP service area. Visit [www.accesswireless.com](http://www.accesswireless.com) to check whether you reside in an i-wireless ETC service area. To be eligible for Access Wireless service, you must meet the applicable eligibility standards described below, which may be amended from time to time.

## Eligibility

Eligibility for Access Wireless service varies by state. You may qualify for Access Wireless if you participate in any of the approved government programs or based on household income eligibility standards. If you seek to qualify for Access Wireless based upon participation in a qualifying federal or state program, you may be required to provide proof of program participation such as program identification card or other social service agency document that shows you currently participate in one of the programs enumerated above. If you seek to qualify for Access Wireless under the household income eligibility standards, you are required to provide written documentation of your household income. Access Wireless shall retain all such certifications and documentation to furnish proof of your eligibility as may be required by applicable law. By completing the Access Wireless application, you consent to the release of your information (including financial information) to our designated agent as required for the administration of your Access Wireless service. This consent survives the termination of this Agreement. Access Wireless reserves the right to review your eligibility status at any time and require you to provide Access Wireless with written documentation of either your household income or your participation in a qualifying federal or state program. You may only receive Lifeline Assistance for a single landline or wireless telephone account at your principal residence. If you or any member of your family unit receives Lifeline Assistance from any other telephone company, you are responsible for notifying your current service provider that you have been approved for Lifeline Assistance through Access Wireless from i-wireless LLC. Continued eligibility to receive Access Wireless Lifeline assistance may require that you re-certify your eligibility periodically. For this purpose, it is important that you keep your information on your Access Wireless account current. Please record any updates to your physical address and e-mail address by signing into your account on our website at [www.accesswireless.com](http://www.accesswireless.com) and select “update profile.”

## Non-Transferable and Non-Assignable

Eligibility for Access Wireless is personal to you. You may not transfer to any third party any of your rights or benefits received under the Access Wireless service, including, but not limited to, any voice minutes received under the Access Wireless service. Similarly, you may not assign your rights or delegate any of your duties under these terms without the prior written consent of Access Wireless, and any attempted assignment or delegation without such consent shall be void. Access Wireless may assign all or part of these terms or your debts under these terms without notice.

## Access Wireless Service

### Airtime Rates, Usage, and Included Monthly Minute Allocation.

While you are enrolled in the Access Wireless program, you will receive a free monthly allotment of airtime minutes as provided for the Access Wireless Program approved in your state and the minute Plan that you select. Access Wireless airtime is issued in minute (or unit) increments. Units are deducted from the Access Wireless phone at a rate of one (1) unit per minute or partial minute of use. There is no additional charge for domestic long distance. Access Wireless offers three plans that are currently available to all new and existing Access Wireless customers. Each plan offers different benefits, features and carry forward options.

New Access Wireless customers must choose a plan upon enrollment. Existing Access Wireless customers who wish to switch plans may do so at [www.accesswireless.com](http://www.accesswireless.com). or by calling 1-866-594-3644. Use of a wireless system

typically begins when you press the "send," "call" or other key to initiate or answer a call and does not end until you press the "end" key or the call is otherwise terminated.

For outbound calls, you may be charged airtime for incomplete and/or busy-no answer calls. Airtime minutes will be deducted for use of other services such as text messaging and accessing the web and downloading content to your Access Wireless phone depending on the rate plan option you choose. No credit or refund is given for dropped calls.

### **Plan Option #1 - 150 Minute Offer**

Each month you will receive 150 free minutes on the first day of your monthly service cycle. These minutes may be used for making or receiving voice calls, sending text messages or data services. All incoming text messages are free of charge. Any unused minutes will carry forward to the next calendar month. Calls made to i-wireless Customer Care, the IVR by calling 611 or use of any short-code such as #BUY (#289) or #LEFT (#5338) directly from your handset are free of charge. Subscribers to this plan are eligible to participate in the i-wireless FREE MINUTES rewards program at participating Kroger-owned store locations. A complete description of the FREE MINUTES rewards program and its business rules are available online at [www.iwirelesshome.com/freeminutes](http://www.iwirelesshome.com/freeminutes).

### **Plan Option #2 - 250 Minute Offer**

Each month you will receive 250 free voice minutes on the first day of your monthly service cycle. These minutes may be used for making or receiving voice calls. All incoming and outbound text messages are deducted at a rate of 1 minute per text message. Calls made to i-wireless Customer Care, the IVR by calling 611 or any short-code such as #BUY (#289) or #LEFT (#5338) directly from your handset are deducted from your monthly minute allocation on a per minute basis. Subscribers to this plan are not eligible to participate in the i-wireless FREE MINUTES rewards program at participating Kroger-owned store locations. Unused minutes expire at the end of your monthly period and may not be used in subsequent months or be transferred or assigned to any third party. If you use all of your monthly voice minutes before a new monthly cycle starts and you have a sufficient balance in your account, you will be charged \$0.10 for each additional minute or text you use. If you use all of your monthly voice minutes before a new monthly cycle starts, and you do not have a sufficient balance in your account, you may not use your mobile phone to make or receive voice calls (other than 911 emergency calls), until the start of the next monthly cycle.

### **Plan Option #3 - \$15 Monthly Credit**

Access Wireless subscribers may choose to apply their monthly minute allotment as a \$15 credit toward the purchase of any i-wireless rate plan, except any text only plan, by adding additional funds to their account via debit or credit card or by purchasing and redeeming i-wireless airtime cards. These funds may be used for making or receiving voice calls, sending text messages or data services. All incoming text messages are free of charge. Any unused minutes will carry forward to your next month's minute allocation. Calls made to i-wireless Customer Care, the IVR by calling 611 or any short-code such as #BUY (#289) or #LEFT (#5338) directly from your handset are free of charge. Subscribers to this plan are eligible to participate in the i-wireless FREE MINUTES rewards program at participating Kroger-owned store locations. A complete description of the FREE MINUTES rewards program and its business rules are available online at [www.iwirelesshome.com/freeminutes](http://www.iwirelesshome.com/freeminutes).

If an Access Wireless customer has not added value to their account within the previous 90 days, any remaining balance above the \$15 monthly credit will be removed prior to the \$15 credit for the subsequent month is applied.

By applying your monthly minute allocation to an i-wireless rate plan, you agree to adhere to the i-wireless Terms and Conditions of service, which are available at [www.iwirelesshome.com/terms](http://www.iwirelesshome.com/terms).

### **Account Status**

Your account will remain active as long as you meet the applicable eligibility standards for Access Wireless service. You are responsible for notifying Access Wireless if you no longer meet the applicable eligibility standards for Access Wireless within five days of becoming aware of your ineligibility by calling Access Wireless at 1-866-594-3644 or sending a written notice to Access Wireless, 1 Levee Way; Suite 3104, Newport, KY 41071. In addition, if you receive a notice from Access Wireless requesting that you confirm your eligibility status, you must do so within 30 days after you receive such notice either on the Access Wireless website at [www.accesswireless.com](http://www.accesswireless.com) or by sending a written notice to Access Wireless, 1 Levee Way; Suite 3104, Newport, KY 41071 along with required proof of eligibility. Since notices may be sent via the US Postal Service or e-mail, it is essential that you keep your information up-to-date. Please record any updates to your physical address and e-mail address by signing into your account on our website at [www.iwirelesshome.com](http://www.iwirelesshome.com) and select "update profile."

If Access Wireless has determined that you are no longer eligible for Access Wireless service either because 1) you have notified us of your ineligibility; 2) you have failed to respond to a request by Access Wireless to confirm your eligibility by the response date; 3) you have responded to a request by Access Wireless to confirm your eligibility, but failed to submit adequate proof of your eligibility status; or 4) Access Wireless learns you are no longer eligible through communication with a state agency, Access Wireless will notify you that you are no longer eligible for Access Wireless service. In addition, if you do not make a voice call or send a text message at least once during any 60-day period, Access Wireless will notify you that you are no longer eligible for Access Wireless service. You must confirm eligibility within 30 days following notification of ineligibility in order to have your eligibility restored.

At the end of the applicable 30-day period following notification of ineligibility, you will lose any free monthly minutes remaining in your account and you will no longer receive a monthly allocation of free minutes. For 120 days after the end of this 30-day period, if you have a sufficient balance in your account, you will be charged 10¢ for each additional minute you use. During this 120-day period, you may choose to switch to an i-wireless plan and keep your phone number by calling 1-866-594-3644. After the end of this 120 day-period, your account will expire and we will deactivate your service. If your account expires, you will lose your phone number, and Access Wireless will assess you a termination charge equal to the value of the balance in your account.

This program is a regulated service and requires following certain federal and state requirements. These requirements may change, from time-to-time, which may affect your eligibility or our ability to continue to provide service. i-wireless reserves the right to discontinue the service at any time.

## **Payment Methods for Paid Service Options**

For wireless phone usage in addition to your monthly minute allocation and in order to utilize messaging, data and other enhanced services or features, you must add money to the cash balance of your Access Wireless account.

### **Top-Up**

You add money to the cash balance of your Access Wireless account by using one of our Top-Up methods. You can Top-Up your account by (1) registering your credit/debit card, or (2) buying i-wireless airtime cards at any of the Kroger family of store locations. i-wireless airtime cards come in increments of \$10, \$25, \$50 and \$75. Sales taxes apply.

The minimum Top-Up amount when using a credit card or debit card is \$20; otherwise, you may use your credit card or debit card to Top-Up in any amount between \$20 and \$100. The maximum amount you may Top-Up at any one time is \$100; the maximum amount you may Top-Up in a single day is \$100; and the maximum cash balance allowed in an account at one time is \$300. The value of any Top-Up amount or card cannot be applied to any wireless service other than Access Wireless.

### **Airtime Cards**

Purchase an i-wireless card at an authorized distributor, including the Kroger family of stores such as Kroger, Ralphs, Dillons, Fred Meyer, Smith's, King Soopers, City Market, Fry's, Baker's, Owen's, JayC, Hilander, Gerbes, Scott's & Pay Less. To activate the i-wireless card, simply dial the number indicated on the i-wireless card or sales receipt (if applicable) and follow the prompts as directed. Each i-wireless card denomination is valid for a specific number of days, which is published on the back of the card, once the i-wireless card has been applied to the account. The number of days an i-wireless card is valid is as follows:

<p>\$10 airtime cards are valid for 30 calendar days from the date of activation. \$25 airtime cards are valid for 60 calendar days from the date of activation. \$50 airtime cards are valid for 90 calendar days from the date of activation. \$75 airtime cards are valid for 90 calendar days from the date of activation.</p>
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Upon the expiration of such period (i.e. 30/60/90 days), any remaining value will expire, except that if a new i-wireless card is added before expiration of the period, in which case the expiration on all remaining airtime extends to the expiry date of the new airtime card.

## Auto Top-Up

You can register to automatically Top-Up your account. By registering for Auto Top-Up, you agree to have the Auto Top-Up amount you have selected deducted from your credit card or debit card and added to your Access Wireless account according to one of the following options: (1) once every month on the date you specify; (2) when your balance falls below \$5. The minimum Auto Top-Up amount is \$20; (3) once a month on your selected rate plan's monthly renewal date to cover your monthly plan fee.

You can set up, modify, or cancel your Auto Top-Up preferences by logging into your account at [www.accesswireless.com](http://www.accesswireless.com) or by calling Access Wireless at 1-866-594-3644.

## Payment Methods for Monthly Recurring Charges

If you have authorized the use of your registered payment method for monthly subscription charges (i.e., for your Mobile Web Pack as described below), we will first attempt to deduct your monthly payment from your cash balance. If you do not have a sufficient cash balance to cover your monthly charge, we will charge your registered payment method.

Alternatively, you may use Top-Up for payment of recurring monthly charges. You may also use Top-Up to add to your cash balance for any service option and use that cash balance for services such as international calls, international messaging, picture messaging and Downloads.

## Account History

Your account history for the previous 60 days will be available online at [www.iwirelesshome.com](http://www.iwirelesshome.com) unless you switch service options, in which case your account history for your new service option will be available online for a period of up to 60 days following the date of your switch. You may request a printed statement detailing 60 days of account history by sending a written request to Access Wireless, 1 Levee Way, Suite 3104, Newport, KY 41071, Attention: Account History.

## Taxes and Surcharges

Stated prices for our service options do not include certain taxes or surcharges. Access Wireless charges state and local sales taxes. The amount of these surcharges is subject to change and may vary from time to time and by geographic area. Access Wireless collects sales taxes on all direct Top-Up transactions and, in certain states,

regulatory fees. Third party retailers are responsible for collecting sales taxes and in certain states, regulatory fees, for Top-Up transaction that occur through such third party retailers. Taxes and fees are subject to change without notice.

## Messaging

You can send and receive text messages of up to 160 characters, including the address and subject line on your Access Wireless phone. There is no character limit for email and instant messages ("IM"). Certain types of messages are device dependent. Standard message rates apply when a message is sent or received, whether it is read or viewed.

## Preventing Spam

If you are receiving unwanted text messages ("spam"), contact the source and unsubscribe or remove your mobile phone number from the service. Even if you elect not to receive text messages, you may still receive service alerts from Access Wireless for which there is no charge.

## Unsolicited Messages

If you intentionally send spam from your Access Wireless phone, we may terminate your service without further notice.

## Data Usage on your Access Wireless phone:

You may purchase an allotment of data for accessing the mobile Internet in the following data increments known as "Mobile Web Packs."

You may purchase the following monthly Mobile Web Packs with any i-wireless rate plan options:

Mobile Web 100MB = \$5 for 100MB Mobile Web 300MB = \$20 for 300MB Mobile Web 1GB = \$30 for 1GB

Your data usage will be deducted from the available data balance on your account. If you use your allocation of data before the end of the monthly period, you will be charged for data at the rate of \$0.01 per 10 kilobytes to access the mobile Internet (the "Overage Rate") on each day that you access the mobile Internet for the remainder of the period, provided that you have a sufficient balance in your account.

You may add a data allocation via a Mobile Web Pack by logging into your "My Account" page on the Access Wireless website at [www.accesswireless.com](http://www.accesswireless.com).

## Specific Terms and Restrictions Regarding Data Services

You are responsible for all data activity from and to your mobile phone, regardless of who initiates the activity. You may not use the data service: (1) with server devices or host computer applications, including, but not limited to, Web camera posts or broadcasts, automatic data feeds, automated machine-to-machine connections or peer-to-peer (P2P) file sharing or other systems that drive continuous heavy traffic or data sessions; (2) as a substitute or backup for private lines or frame relay connections; (3) with "auto-responders", "cancel-bots," or similar automated or manual routines which we determine generate excessive amounts of net traffic, or which disrupt net user groups or email use by others; (4) to send "spam" or unsolicited commercial or bulk email (or activities that have the effect of facilitating unsolicited commercial email or unsolicited bulk email); or (5) for any activity that adversely affects the ability of other people or systems to use either Access Wireless or its affiliates wireless services or other parties' Internet-based resources. Access Wireless reserves the right to limit, suspend or terminate without notice any misuse or use that adversely impacts our network performance or hinders access to our network.

## Data Content

Data services available through Downloads, on your Access Wireless phone may allow you to access the Internet, text, pictures, games, graphics, music, email, sound and other materials ("Data Content") and send Data Content elsewhere. Some Data Content is available from i-wireless or its business partners, while other Data Content can be accessed from other third-party websites or services. Data Content may be unsuitable for children/minors, unreliable, inaccurate, offensive, indecent or objectionable. You are solely responsible for evaluating the Data Content accessed by you or anyone using your Access Wireless phone or device. We strongly recommend that you monitor Data Content access by children or minors. Prior to accessing certain Data Content that may be inappropriate for children or minors, we may require you to provide some personal information in order to verify that you are at least 18 years of age. Data Content from third parties may also harm your Access Wireless phone, device or its software. To protect our network or services, or for any other reason, we may place restrictions on accessing certain Data Content, impose separate charges, limit the amount of data you can access or transfer, or otherwise limit or terminate services.

Your relationship with companies that provide Data Content is between you and them. While Access Wireless supports your use of your Access Wireless phone to access Data Content, it specifically MAKES NO REPRESENTATIONS OR WARRANTIES, EXPRESS OR IMPLIED, INCLUDING, TO THE EXTENT PERMITTED BY APPLICABLE LAW, ANY WARRANTY OF MERCHANTABILITY, FITNESS FOR A PARTICULAR PURPOSE, QUALITY, NON-INFRINGEMENT, PERFORMANCE, ACCURACY OR EFFORTS CONCERNING any other entity or whose services or Data Content you may utilize or otherwise access while using your Access Wireless phone. Access Wireless has no control over the Data Content on any partner site that you may access via your Access Wireless phone. We strongly recommend that you use good judgment and care in sharing any personal information about yourself while communicating and interacting with any website. Please do not modify, make, upload or download any Data Content that may violate anyone's intellectual property rights, including copyright laws.

In the event that you lose access to Data Content you have purchased, regardless of the reason for such loss, including without limitation the failure of your mobile phone or computer, Access Wireless may not make such Data Content available to you free of charge.

Access Wireless' rights to license certain Data Content may expire or may be changed, at any time and without notice. In such event, Access Wireless will not extend your rights to such Data Content, and will not provide any reimbursement of any fees or other amounts paid to Access Wireless in connection with such Data Content, although you may contact Access Wireless to request replacement Data Content. Access Wireless will not be required to provide any such replacement Data Content.

## **Additional Charges**

There is a charge of \$1.50 for each call to directory assistance plus airtime charges for minutes used.

You may check your balance at any time free of charge by visiting our website at [www.iwirelesshome.com](http://www.iwirelesshome.com) or from your mobile phone.

Calls are billed in one-minute increments, with a minimum time per call of one minute. Call times are rounded up to the nearest whole minute. Calls are limited to two hours: if you are on a call for longer than two hours, the call will automatically terminate. International calls are billed at the international per-minute rate for the country you are calling plus your standard airtime rate. International rates vary. Visit our website at [www.iwirelesshome.com](http://www.iwirelesshome.com) to check international rates.

You can switch your number to another Access Wireless phone for no additional charge by calling Access Wireless at 1-866-594-3644.

If your account is deactivated for any reason, Access Wireless will assess you a termination charge equal to the balance in your account, which is not refundable even if you reactivate your account.

Please contact Access Wireless at 1-866-594-3644 or visit our website at [www.accesswireless.com](http://www.accesswireless.com) for additional pricing information or answers to any questions about our services. Calls to Access Wireless may be monitored and recorded for quality assurance.

## Disputed Charges

If you think that there has been an error in any charge to your account, you must notify us within 60 days after the charge appears on your account. Call Access Wireless at 1-866-594-3644 and one of our advisors will investigate your claim. If you do not notify us within this 60-day period, you waive any right to dispute the charge, including in arbitration or a court proceeding. We will credit, refund or provide other compensation to you if we determine that the disputed charge was inappropriate and was raised by you in a timely manner. If we credit, refund or provide other compensation to you to settle a disputed charge, you agree that the dispute is fully and finally resolved and not subject to further proceedings. We are not liable for any charges for products or services provided by third parties through and for use on our network, regardless of the date on which you report it. If an unauthorized or disputed charge for a third-party product or service appears on your statement, you must contact that third party directly. Third-party contact information is available on your statement, as well as by calling Access Wireless at 1-866-594-3644.

## Account Suspension Related to Credit Card Chargebacks

If we have attempted to charge your credit card for a charge that we deem is authorized and valid under these Terms of Service, and the credit card company withholds such payment because the charge has been disputed (a "Chargeback"), we reserve the right to suspend your access to our service for up to 30 days until the Chargeback is reversed. If the Chargeback is not resolved and reversed, your account will be deactivated at the end of the 30-day period and Access Wireless will assess you a termination charge equal to the balance in your account, which is not refundable even if you reactivate your account. If your account is reactivated, you may be charged a fee for each Chargeback. If there are multiple Chargebacks associated with your account or we suspect or confirm any fraudulent activity in connection with your payments, we may, without limiting any other rights available to us, elect in our sole discretion to require you to add money to the cash balance of your Access Wireless account solely by means of Top-Up cards.

## Refunds and Returns

No Refunds of Top-Up Cards and Monthly Charges Access Wireless is not responsible for, nor do we refund, lost, stolen, misused, or damaged Top-Up cards. Top-Up cards must be applied to your account within 5 years of purchase. Neither Access Wireless, i-wireless or Kroger accepts returns of or provides refunds for Top-Up cards. All Top-Up sales are final and non-refundable regardless of who uses or possesses your mobile phone after you buy airtime, and regardless of whether the mobile phone is used with your consent or knowledge.

Monthly charges are non-refundable.

## Returning Your Access Wireless Phone:

A defective Access Wireless phone may be returned within 14 calendar days from the date in which the phone was received. All equipment must be complete and returned in the original packaging and in good condition to be eligible for a comparable replacement. Please contact Customer Care to obtain a Return Authorization Number at 1-866-594-3644. This return authorization number must appear on the outside of the shipping package for your return to be processed correctly.

i-wireless LLC Attn: Returns Manager Return Authorization Number \_\_\_\_\_ 1 Levee Way; Suite 3104  
Newport, KY 41071

Include your name, address, home phone number and return authorization number on the original packing list.

## Returning an i-wireless Phone:

In-store Purchases An i-wireless phone purchased in-store may be returned to the place of purchase within 14 calendar days from the date of purchase. All equipment must be complete and returned in the original packaging and in good condition to be eligible for a refund of the purchase price. Proof of purchase is required. i-wireless airtime cards are not refundable. Equipment purchased beyond 14 days from the date of purchase will not be refundable at the place of purchase.

## Returning an i-wireless Phone Purchased Online:

An i-wireless phone purchased online at [www.iwirelesshome.com](http://www.iwirelesshome.com) may be returned within 14 calendar days from the date that the equipment was received. All equipment must be complete and returned in the original packaging and in good condition to be eligible for a refund of the purchase price. All unused airtime purchased online with a handset will be refunded. Please contact Customer Care to obtain a return authorization number at 1-866-594-3644. This return authorization number must appear on the outside of the shipping package and on the receipt for your return to be processed correctly.

i-wireless LLC Attn: Returns Manager Return Authorization Number \_\_\_\_\_ 1 Levee Way; Suite 3104 Newport, KY 41071

Include your name, address, home phone number and return authorization number on the original packing list. The credit card used at the time of purchase will be credited 10-15 days after the returned handset is received.

Equipment purchased online beyond 14 days from the date that the equipment is received is not refundable.

All mobile phones purchased directly from a Kroger-owned retail location, online at [www.iwirelesshome.com](http://www.iwirelesshome.com), or provided to you through our Lifeline Assistance program include a one-year warranty from the original equipment manufacturer or, in the case of refurbished handsets, us. If you experience a handset malfunction, call Access Wireless at 1-866-594-3644. Defects due to misuse or abuse are not covered under any warranty.

## Lost or Stolen Equipment

If your mobile phone is lost or stolen, you are responsible for charges incurred until you notify us of the loss of your mobile phone by visiting our website at [www.accesswireless.com](http://www.accesswireless.com) or by calling Access Wireless at 1-866-594-3644. Upon receiving notice that your mobile phone is lost or stolen, Access Wireless will suspend your account. If you do not either activate a new Access Wireless phone or notify us that you have found your old mobile phone within 60 days of the suspension of your account, your account will be deactivated, you will lose your Access Wireless phone number and Access Wireless will assess you a termination charge equal to the balance in your account, which is not refundable even if you reactivate your account. Customers may purchase a new i-wireless phone at the regular retail price at a participating Kroger store or online at [www.iwirelesshome.com](http://www.iwirelesshome.com), or you may choose to receive a refurbished replacement phone for a fee of \$30, plus applicable tax.

## Mobile Phone Number

The mobile phone number we provide for your use is and will remain the property of Access Wireless. We may give the mobile phone number to another customer without telling you if you cancel your service with Access Wireless in order to use another mobile service (unless you transfer the mobile phone number to another telecommunications provider in accordance with applicable regulations), or if your account expires and is deactivated. We may also change your mobile phone number at any time, although we will notify you prior to any change. You can request to change your mobile phone number up to three times each year. Any request beyond that will incur a \$10 processing fee for each additional request.



## Keeping Your Old Mobile Phone Number

Depending on where you live, you may transfer an existing wireless or wireline carrier telephone number to your Access Wireless service for use as your mobile phone number. To switch an existing phone number to Access Wireless, contact Access Wireless at 1-866-594-3644. Before you call, please have a bill from your existing wireless or wireline carrier available. When you switch from another wireless carrier to Access Wireless, you may have to pay a termination penalty to your former carrier if you terminate your contract early. Access Wireless will not reimburse you for any termination fees imposed by other carriers.

You will not be able to switch your area code without receiving a new local number from Access Wireless as well. For example, if you move from San Francisco to New York City, and your San Francisco number was 415-123-4567, you may keep 415-123-4567 as your number, but you may not switch your number to 212-123-4567. Although you may keep your old number and old area code, you should be aware that your New York friends may pay long distance charges when they call your San Francisco number from the New York area.

## Acceptable Use of Access Wireless Products and Services

You may not use Access Wireless' service for any illegal purpose, including to harass, threaten, abuse, defame, or slander any individual or entity. You may not use our service in a manner that interferes with another Access Wireless or i-wireless customer's use of our service. You may not use, or attempt to use, Access Wireless' service for profit or any other gain, including, but not limited to, selling, attempting to sell, or in any way transferring to a third party any service from Access Wireless.

Access Wireless and its business partners provide messages, data, information, music, games, images, text or other material for your private, non-commercial use only. You may not sell or resell this Data Content. You may not upload and transmit or broadcast this Data Content in public places. These uses are expressly prohibited by i-wireless LLC. You will be solely responsible if you engage in any unauthorized use of this Data Content.

## Content Objectionable or Offensive to Third Parties

You may not publish, copy, reproduce, upload, download, post, distribute, edit, modify, or otherwise transmit ("Post") any content that is unlawful, libelous, defamatory, slanderous, obscene, pornographic, harassing, threatening, abusive, harmful, or otherwise objectionable, or that infringes upon or otherwise violates others' rights, including privacy rights.

## Unlawful Content

You may not Post any content that encourages or is in furtherance of an unlawful, criminal, or fraudulent activity or that violates any Access Wireless rule or policy.

## Soliciting Information

You may not Post any content that solicits any information from other customers or involves any commercial activities, including advertisements.

## Infringing Content

You may not Post any content that may infringe on or otherwise violate any patent, trademark, trade secret, copyright, or other intellectual property or proprietary right of any person. Infringement may result from the unauthorized copying, posting, editing, modifying or distributing of any content, including ringtones, graphics, pictures, photographs, logos, software, articles, music, games, or videos. By Posting any content, you represent that you have legal rights to use, distribute and publish such content.

## Harmful Content

You agree not to Post any content that contains viruses, worms, time bombs or other similar programs that would interfere with or disrupt our provision of services.

## Removal of Objectionable Content

We reserve the right, in our sole discretion, to remove or delete any content that you Post on our service that violates these Terms of Service or is otherwise deemed objectionable by us in our sole discretion. We may delete content that you have downloaded to your personal vault or limit the amount of content that you may download during any given period.

## Suspension or Termination of Service

We reserve the right to issue a warning and to suspend or terminate your access to [www.accesswireless.com](http://www.accesswireless.com) website, any other website we operate, or to our service at any time should we determine in our sole discretion that you have violated these Terms of Service or any other rule or policy of Access Wireless, or for any other reason in our sole discretion.

## Storage of Content

Some content may not be stored or processed because of personal vault memory limitations. You agree that Access Wireless is not liable for the deletion of or failure to store content, and, in compliance with these terms, you should store photographs and other information permanently by using another means, such as a CD-R or personal computer. Content may expire within 60 days of its original download or use unless you otherwise request its retention and/or preservation. A password may be required to use Downloads or to access the contents of your personal vault. Use of Downloads requires the use of a compatible mobile phone or other device and is subject to certain functionality limitations such as memory, processor speed, and graphics capability. Not all applications will work on all Access Wireless phones and equipment, and some applications may not be available in all areas. Use of certain Downloads applications may require the disclosure of personal information subject to the policies of the companies that offer such applications. We also disclose to third parties any content necessary to respond to claims that such content violates the rights of third parties or to protect the rights and property of Access Wireless.

## Location-Based Services

Location-based information is information that indicates the location of your Access Wireless phone. When you turn on your mobile phone, your device automatically communicates with our network and relays its current location unless you have turned off your handset's location functionality. The accuracy of location-based services may be affected by circumstances beyond our control, including atmospheric, geographic or topographic conditions. We do not warrant or guarantee that location-based services will be available at any specific time or geographic location, or that service will be provided without interruption.

By using our location-based services, you consent to have us electronically collect, monitor and track your physical location and the location of your mobile phone. We collect and disclose your location information only to provide you with the location-based services you have requested, or in emergency situations as prescribed by law. If you allow others to use your Access Wireless phone, you are responsible for informing these users that their location information may be collected or disclosed. We will not provide your location information to third parties without your consent other than as prescribed by law.

If you wish to change your privacy options for the use of your location information, or if you no longer wish to use our location-based services, please change the settings on your mobile phone by going either to (1) Menu > Settings >

Network > Location or (2) Menu > Tools&Settings > Others > Location, depending on your mobile phone. Changing your privacy options or terminating our location-based services will not affect the status of any other services you receive from us. Any information that is collected, monitored or tracked regarding your physical location or the location of your mobile phone will not be retained longer than is necessary to provide the location-based services you have selected. For further information regarding your privacy options in connection with your use of Access Wireless services go to <http://www.iwirelesshome.com/privacy-policy>.

## **Access Wireless Website**

You may use our website located at [www.accesswireless.com](http://www.accesswireless.com) to manage your account, make payments, view our content and learn more about our products and services. Any use of the Access Wireless website is subject to the terms set forth in the Terms of Website Use and Privacy Policy, which are available on our website at [www.accesswireless.com](http://www.accesswireless.com).

## **Teletype (“TTY”) Access**

For information concerning TTY access for the hearing-impaired, please contact Access Wireless at 1-866-594-3644.

## **Pay-Per-Call Services**

Access Wireless will not directly complete any calls to 1-900, 1-976 or other pay-per-call services.

## **Safety and Security**

Access Wireless is not responsible for the content or security of voicemail, messages or contact lists you create. We urge you to create a password to access your voicemail.

Always use your device in a safe manner that does not create a risk to your safety or the safety of others around you. While driving, always use a hands-free device and never use your mobile phone to send text messages. Always use your Access Wireless phone in accordance with all applicable laws and regulations.

## **Use of Your Customer Information**

When you agree to these Terms of Service, you also agree to the terms of our Privacy Policy (available at [www.accesswireless.com](http://www.accesswireless.com)). This policy may change from time to time and includes important information on what data we collect about you, how we use this data and with whom we share that data.

In the course of providing service to you, we may collect certain information made available to us solely because of our relationship with you, including information regarding the nature and type of your service and the calls that you place and receive. We always will handle this data, so-called “Customer Proprietary Network Information” (“CPNI”) in accordance with Federal Communications Commission regulations, federal consumer privacy laws and the Access Wireless Privacy Policy. We take reasonable steps to protect CPNI and your other personal information from unauthorized use or disclosure. Except as contemplated by the Privacy Policy, we will not intentionally share your personal information without your permission. We may, from time to time, use the information you provide us to market services to you that may be related to our service offerings.

To comply with appropriate legal process, Access Wireless may disclose to law enforcement authorities and governmental agencies any information, including your name, account history, account information, or other transmission data properly requested by law enforcement.

## **Dispute Resolution**

Access Wireless and you each agree to contact each other first with any disputes. You must contact us with any dispute by calling Access Wireless at 1-866-594-3644 or writing us at Access Wireless, 1 Levee Way; Suite 3104, Newport, KY 41071, Attn. Executive Escalations, and providing a description of the problem, all relevant documents/information and the proposed resolution. We will contact you at the last address that you have provided us or on your mobile phone. We each agree to negotiate in good faith to resolve any dispute. You agree to pay all amounts reflected on your account statement, even while a dispute is being resolved.

## **No Trial by Jury**

To the extent permitted by law, if a claim proceeds in court, we each also waive any right that we may have to trial by jury in any lawsuit or other proceeding.

## **Limitation of Liability**

Unless prohibited by law, Access Wireless and you agree to limit claims for damages or other monetary relief against each other to direct and actual damages. You agree that Access Wireless and its business partners are not liable to you or any third party for any indirect, special, incidental, consequential, exemplary or punitive damages of any kind, including lost profits (regardless of whether we have been notified that such loss may occur) by reason of any act or omission in our provision of products or services or under any legal theory, including fraud, misrepresentation, breach of contract, personal injury, product liability or any other theory. Access Wireless assumes no risk or responsibility for your use of any of the content provided as part of our services. We are not liable for (1) any act or omission of any other company furnishing a part of our service or any equipment provided for such service, (2) errors or omissions of any vendors participating in offers made through us, (3) any damages that result from any product or service provided by or manufactured by third parties, or (4) any unauthorized or disputed charges for Access Wireless services that appeared more than 15 days earlier on your online account statement and which you did not properly dispute within 15 days after the charge was posted to your account. You acknowledge that no fiduciary or other special relationship exists between you and Access Wireless, by virtue of these Terms of Service or your use of Access Wireless phones and services. You also agree we are not liable for missed voice mails, deletion of contacts from your address book, or data content or messages from your voicemail system.

## **Indemnification**

You agree to indemnify and hold harmless Access Wireless and its affiliates and their respective officers, agents, partners and employees, from any and all liabilities, settlements, penalties, claims, causes of action and demands brought by third parties (including any costs, expenses or attorneys' fees on account thereof) resulting from your use of Access Wireless products and services, or another person whom you authorize to use your products or services, whether based in contract or tort (including strict liability) and regardless of the form of action.

## **Warranties**

We do not manufacture our mobile phones or other equipment. The only warranties applicable to such devices or equipment are those extended by the manufacturers. We have no liability, therefore, in connection with mobile phones and other equipment or for manufacturers' acts or omissions.

WE MAKE NO WARRANTIES OR REPRESENTATIONS, EXPRESS OR IMPLIED, REGARDING THE PRODUCTS AND SERVICES PROVIDED HEREUNDER OR ANY SOFTWARE REQUIRED TO BE USED IN CONNECTION THEREWITH, INCLUDING, BUT NOT LIMITED TO, AND TO THE EXTENT PERMITTED BY LAW, WARRANTY OF TITLE, WARRANTY THAT A PRODUCT OR SERVICE IS FIT FOR A PARTICULAR USE OR WARRANTY OF MERCHANTABILITY. WE EXPRESSLY DISCLAIM ANY AND ALL IMPLIED WARRANTIES. WE DON'T PROMISE ERROR-FREE OR UNINTERRUPTED SERVICE AND DON'T AUTHORIZE ANYONE TO MAKE WARRANTIES ON OUR BEHALF.

## Effect of Terms of Service

These Terms of Service supersede all oral or written communications and understandings between you and Access Wireless with respect to our products and services to you and the terms under which they are offered and provided to you. If any part of these Terms of Service is declared invalid or unenforceable, all other parts of these Terms of Service are still valid and enforceable. Such invalidity or non-enforceability will not invalidate or render unenforceable any other portion of these Terms of Service. No provision of these Terms of Service provides any person or entity not a party to these Terms of Service with any remedy, claim, liability, reimbursement, or cause of action, or creates any other third-party beneficiary rights.

Unless otherwise specified herein, any disputes of a legal nature, whether a claim, complaint, arbitration demand or otherwise, shall be subject to the exclusive jurisdiction of the federal or state courts located within the State of New York, except in the case of a customer resident in the State of California, in which case such disputes shall be within the exclusive jurisdiction of the federal or state courts of or in the California county in which the customer primarily uses Access Wireless' service.

## Notices

You may notify us by mail (Access Wireless, 1 Levee Way; Suite 3104, Newport, KY 41071), phone (1-866-594-3644) or electronic means via our website at [www.accesswireless.com](http://www.accesswireless.com). Notices will be considered effective after we receive them. If you are unable to resolve your concerns with Access Wireless, you may file a complaint with the Federal Communications Commission, Washington, DC 20554. Any notice we send you will be sent to your last known residence or electronic address as shown on our records, or via text message to your Access Wireless phone.

## Export

You agree to comply with all trade regulations and export control laws, both domestic and foreign. Access Wireless phones, equipment, software, and any underlying information accessed or transferred by you using our services may be subject to U.S. export controls, including the Export Administration Act (50 U.S.C. § 2401, et seq.) and the Export Administration Regulations (50 C.F.R. § 730-774), as well as the import regulations of other countries. You agree not to export or re-export any Access Wireless phones, equipment, or software to any foreign country. Any information transferred by you using Access Wireless' services to any foreign country, entity, or person must comply with the U.S. Export Administration Act and the Export Administration Regulations.

## Trademarks and Licenses

The i-wireless brand and family of marks are registered trademarks used under license by i-wireless. Sprint and Sprint PCS are registered trademarks of Sprint. You agree not to infringe, misappropriate or otherwise violate the intellectual property rights of i-wireless, Sprint or any other carrier. You agree that a violation of this paragraph causes harm that cannot be fully redressed by monetary damages, and that in the event of such violation or threatened violation, i-wireless is entitled to immediate injunctive relief, without posting a bond or additional security, in addition to all other rights and remedies available.